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Postscript to
Book

I.
The honorable for a Dutch Lt. Col. & his wife. plays roll. and is
in the 1st of 1000. & is now in the 1st of 1000. & is now in the 1st of 1000.
of July 1600
from the 1st of 1000. & is now in the 1st of 1000.
roll to the 1st of 1000.
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III.

Lord Collier & his wife. plays roll. and is
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CRIMINAL TRIALS IN SCOTLAND,

FROM A.D. M.CCCC.LXXXVIII TO A.D. M.DC.XXIV,

EMBRACING THE ENTIRE

REIGNS OF JAMES IV. AND V., MARY QUEEN OF SCOTS,
AND JAMES VI.

COMPILED FROM THE ORIGINAL RECORDS AND MSS.

WITH

HISTORICAL NOTES AND ILLUSTRATIONS,

BY

ROBERT PITCAIRN, ESQ.

WRITER TO HIS MAJESTY'S SIGNET, F.S.A. SCOT. AND HON. F.S.A. PERTH, &c.

VOLUME SECOND.

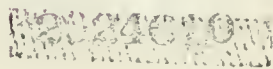
EDINBURGH:

WILLIAM TAIT, PRINCE'S STREET; AND
LONGMAN, REES, ORME, BROWN, GREEN, AND LONGMAN, LONDON.
M.DCCC.XXXIII.

PRINTED AT THE BANNATYNE CLUB PRESS BY BALLANTYNE AND CO.

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TO
THE PRESIDENTS AND MEMBERS
OF THE
BANNATYNE AND MAITLAND CLUBS,
THIS SECOND VOLUME
OF A
COLLECTION OF ANCIENT SCOTTISH CRIMINAL TRIALS,
ORIGINALLY PROJECTED BY
THEIR MUCH LAMENTED ASSOCIATE, THE LATE
SIR WALTER SCOTT, BART.,
AND COMMENCED UNDER THE PATRONAGE OF THESE DISTINGUISHED
LITERARY INSTITUTIONS
BY ONE OF THEIR NUMBER,
IS GRATEFULLY AND RESPECTFULLY DEDICATED,
BY
THE EDITOR.



CRIMINAL TRIALS

AND OTHER PROCEEDINGS BEFORE THE HIGH COURT OF JUSTICIARY.

[*Mr James Fowlis, Justice-Depute.*]

Slaughter.

Dec. 15.—GEORGE DOWGLAS in Glaspen.

Dilatit of airt and pairt of the slauchter of vinq^{le} James Stewart of Newtoun ; committit the secund of Nouember instant.

PERSEWAR, James Stewart, eldest sone.

PRELOQUITOURIS for the pannell.

Mr Johnne Nicolssoune,	George Dowglas youngar of Langnudrie,
Mr Robert Lyntoune,	William Carmichell of Rowntrie-corfe.

The persewar askis instrumentis of the production of the Lettres, dewlie execute and indorfat, purchest be thame aganis James Dowglas of Torthorwell, Charles Dowglas in Anderfchaw, John Dowglas his stap-sone, Johne Tuedie in Howgait, George Inglis, and James Bannatyne thair, quhair thay ar demunceit rebellis and put to the horne. The said George Dowglas in Glaspen askis instrumentis of his comperance, and that he offeris him reddie, to vnderly the law for the slauchter of James Stewart of Newtoun.—Comperit the Kingis Aduocat and produceit ane Warrant, subferyuit be the King, ordaining the mater to continew. The pannell takis instrumentis of the offer, and desyris that the Justice minister justice in the said mater, nochtwithstanding the Kingis Warrant.

The Justice admittis the Warrant ; and ordanis the partie to fynd caution thairfoir, to the ordour.

Continued to the air of ‘ Lanark. Plegio Wilelmo Carmichell de Rowintre-corfe et Johanne Carmichell in Howgait, conjunctim.’

Witchcraft.

Dec. 16.—JONET GRAWIE.

Dilatit of certane crymis of Wichcraft.

PERSEWARIS, Effie Crummie spous to Capitan Skrymgeour, Mr Williame Hairt aduocat. The mater desert, be the laik of ane Assyse, quha wer nocht summond.

Printing a vitiated Act of Parliament.

Feb. 2, 1596-7.—ROBERT WALDEGRAIF, Prentar to his Maiestie.

The quhilk day, Robert Waldgraif, Prentar to his Maiestie, being enterit on pannell, accusit and persewit be Mr Williame Hairt aduocat to our fouerane lord, ffor the tressonabill Imprenting of ane alledgeit Act of his hienes Parliament, as sett furth be his Maiestie and thre estaitis of Parliament, haldin att Edinburgh the penult day of Maij 1592, intitulat, ‘ ffor þe abolifching of þe Actis concerning the Kirk ;’ and tressonablie vitiat, adulterat and alterit fra the originall Act of Parliament, rotit and agreit vpoun be his hienes and thre estaitis in the Parliament foirsaidd, contenit in the Register of his hienes Actis of Parliament, dewlie thaireftir publeifcht : ffor the quhilk tressonabill cryme (he) is wardat, to be pwneift be tinsel of lyffe, landis and guidis.

The said Robert Waldgraif declarit, be his ayth, in presens of God in heavin, that the said Act of Parliament quhairvpoun he is challengeit, wes newir formit, vitiat or alterit be him, nor na vther of his knowlege ; and forder declaris, that fa far as his memorie can serue him, quhilk is now waik, in respect of his infirmitie and lang feiknes, that the said Act wes send and delyuerit to him be ane in the Clark of Registeris name, quhome he supponis to haif bene his seruand for the tyme ; as he sal ansuer to God in the latter day : And gif ony wrang be done, in the altering of the said Act, the famin is done be him quha brocht it to the said Robert and without his knowlege : And forder declarit, that he had his Maiesteis Warrant, to prent all the Actis of Parliament concerning the Kirk, quhairof he tuik this to be ane : And nochttheles, insofar as his Maiestie is offendit, or fault may be imput to him in the mater, he becumis in his Maiesteis will and mercy ; declaring vpoun his faull and conscience. he newir offendit his Maiestie, in thocht, word or deid.

The Justice-depute continewit to tak the said Robert in will, vntill he knew his Maiesteis mynd.

PERSEWAR, Mr Williame Haert aduocat.

Feb. 4.—The Aduocat produceit ane Warrant direct to the Justice, Justice Clark or his deputis, to put Robert Waldgrave to the tryell of ane Assyse ; quhairof the tennour followis.¹

The Assyse being sworne, the Aduocat produceit the Act of Parliament prentit be him selff, acknowledgeit be him, confest addit to the buik produceit, att the leist prentit syntime eftir the rest : And forder produceis the extract of the rycht Act of Parliament, vnder the subscription of the Clark Register, far different fra the viciat and adulterat Act.

¹ Most unfortunately, this interesting document is not inserted in any part of the Record preserved. This Volume is evidently the scroll-book used in Court, from which the proper Register was afterwards extended.

The said Robert Waldgrave anfuert, that he had the Kingis Warrant for prenting of the haill Actis concerning the Kirk; and alledgeit that the Clerk of Registeris or sum (ane) brocht the said Act, in his name, to be prentit; bot he can nocht declair the manis name quha brocht it. It is anfuert be the aduocat, that gif ony Warrant be had of his Maiestie, it wes ane generall Warrant gewin to him, before he prentit the buik; bot had na Warrant to prent this Act, quhilk wes prentit eftir the prenting of the buik. The said Robert produceit ane Gift vnder the Previe feill, geving him Licence to prent the Actis of Parliament.

The Assyse, in ane voce, chuse James Skeddowie (merchand in Edinburgh) chancillar.

VERDICT. The Assyse, in ane voce, fyles the said Robert Waldgrave, for the tressonable Imprenting of ane alledgeit Act of his hienes Parliament, as sett furth be his Maiestie and thre Estaitis, in the Parliament haldin att Ed'. the penult day of Maij, the yeir of God I^m.V^c. fourfcoir and tuell yeiris, intitulat 'anent the abolishing of the Actis contrar the libertie of the trew Kirk and abolishing of the jurisdictione, penultimo Maij 1592,' and tressonable viciat, adulterat and alterit fra the originall Act of Parliament, votit and agreit vpoun be his hienes and thre estatis in the Parliament foirsaid; contenit in the Register of his hienes Actis of Parliament, dewlie thaireftir publeischit.

[CURIA JUSTICIARIE *tenta in Pretorio Ville de Leyth, xj Februarij* 1596, *per Magistrum Jacobum Foullis, Justiciarium Deputatum*. ASSESSOURIS, (Walter Lord Blantyre) Thesaurer,¹ (Andrew Stewart, third) Lord Ochiltre, (Sir John Skene of Curriehill) Justice Clerk,² (Sir John Cockburn of Ormiston) Clerk of Register,³ Sir Robert Meluill.⁴]

Treason—Convocation of an unlawful Assembly, &c.

Feb. 11.—ROBERT HAMMILTOUNE of Inchmauchan, Williame Kirkaldy of Grange, Sir James Edmestoun of Dunraith, elder, ... Edmestoun younger of Dunraith,⁵ and [James] Lokart of Leis, eldar.

Dilaitit of certane tressounabill crymes, committit be thame the xvij and xvijj dayis of December (lastwas,) aganis his Maiestie and his Counsalouris.

PERSEWARIS,

Mr Thomas Hammiltoune of Drumcairne, aduocate, Mr Williame Hairt of Levelandis, advocate.

PRELOCUTOURIS for Robert Hammiltoun,

Mr T. Craig and Mr Johnne Nicolfounne, Mr Johnne Ruffell, Mr Alex. King, Mr Johnne Dempstar.

¹ He was also one of the Extraordinary Lords of Session.
Ordinary Lords of Session.

² Lord Curriehill, also one of the Ordinary Lords of Session.

³ Lord Ormiston, one of the Ordinary Lords of Session.

⁴ Of Murdocairnie, one of the Extraordinary Lords of Session.

⁵ 'Delait, in respect of the Thesaur-

raris declaratioun he was nocht chargeit.'

The saidis Aduocatis (persewaris) producet the Dittay vnderwrittin, and siclyke producet ane Warrant, quhairof the tennour followis.¹

Compeirit M^{ris} Thomas Craig, Alex^r King and Johnne Nicolfoun, and producet ane Warrant subscryuit be the Lordis of Sessiou, ordaining thame to compeir for the pannell; and defyrit the samin to be registrat. The said Mr Johnne Dempstar produceit ane vther Warrant, subscryuit be the saidis Lordis of Sessioune; quhilk the Judges admittit, in respect of the Act of Parliament. The said Mr Johnne Russell produceit ane vther Warrant, for James Lokhart of Ley; quhilk the Judges lykwayis admittit. Quhairvpoune the saidis procuratoris tuik instrumentis.—Mr Johnne Russell tuik instrumentis, that the Judge admitis him, for the Lairdis of Duntraith and Ley.

The Lord Ochiltrie declynis him self to be Assessor, in the persute aganis the Laird of Grange.

The pannell takis instrumentis, that the aduocat declaris he produceis ane cownone Dittay² aganis the haill pannell.

The haill pannell adhairs to the declinatour of my Lord Ochiltrie, in respect the Dittay is cownone.—The Kingis aduocat takis instrumentis, that Mr Thomas Craig declairis, that the grund of the argument quhilk will declyne my Lord Vchiltrie, in persute of the Laird of Grange, is foundit vpoun inimitie standing betuix the Laird of Pharniherst and the Laird of Grange; quhilk Laird of Pharniherst is guid-brother³ to the said Lord Vchiltrie.—The Laird of Duntraith takis instrumentis, that he propones his declinatour aganis my Lord Vchiltrie, becaus the pannell is cownone. Declairis, gif he him self war vpone the pannell his allane, he wald nocht declyne my Lord Vchiltrie.

It is allegit aganis the haill Assessors, that thay can nocht be Assessouris nor Judges in this caus, becaus thay hane all gevin counsaile in this caus, and hes fund this cryme to be Treffone, without citatioun of partie.—The Laird of Duntraith and Laird of Lies passe fra the alledgeance foirlaid, aganis the Assessouris and the lau⁴.—The aduocat takis instrumentis, that the pannell will nocht declyne the rest of the Assessouris for this cause, nor vse ma⁵ declinatouris.

THE Justice ordanis the Laird of Grange to be removit of pannell this day.

It is allegit be Mr Thomas Craig for the rest of the pannell, seing the Laird of Grange hes bene anes pannellit (and) anes accusit, . . . vpoun ane cownoun Dittay, as my Lord aduocat hes declairit, and that my Lord Vchiltrie hes declynit him self as Assessor to the Laird of Grange, becaus of inimitie and assist-

¹ The principal Register for this period is unfortunately lost. The Volume preserved is merely the Court Book or scroll, from which the proper Record was afterwards made up.

² One Dittay

only, common to them all, *i. e.* they were not charged upon separate Indictments.

³ Brother-in-

law. ⁴ This and the preceding sentence partially deleted. The plea was retracted.

⁵ More,

or farther objections against the Assessors.

ing in deidlie feid with the Laird of Grange, betuix the Lard of Grange and Pharniherft, and as partie to the Laird of Grange, the Lord Vchiltrie can nawayis be Affeffour to the reft of the pannell, *qui priuent consimilem causam*; feing the Dittay is cownoume, fa thair defences is cownoume, and Interlocutour vpone the ane defence fall be Interlocutour vpone the vther: And as he him felf can nocht fit vpoun the Laird of Granges land and heritage, to fit vpone the defences in his awin perfoune, fa he can nocht fit vpone the lyk defence *in consimili causa*, quhilk may prejudge the Laird of Grange; speciallie in respect, the Laird of Grange is als pannell this day, and the defens was proponit for him and the reft coniunctlie, and fund relevant in his perfoune; and to the effect that this defence fould nocht be competent to the reft of the personis pannell, he is removit of pannell this day; the quhilk letter part of this alledgeance aucht to be referrit to the Judge and Affeffouris. Quhairvpone thay tuik instrumentis.

The aduocat alledgit, the former alledgeance aucht to be repellit; becaus thair is na *continentia cause* vpone this cryme, becaus euerie perfon is vpone pannell *super facto proprio et delicto personali*; lyk as the declinatour proponit aganis my Lord Vchiltrie, is only for ane personall caus of evill will betuix the Lard of Pharniherft and the Lard of Grange, quhilk is nawayis competent to the reft of the pannell: As to the circumventioun and defraud of the law, remittis to the Judge and Affeffouris quham it tuiches.—Ansueris, the grund is nocht laid be the saidis accipientis¹ vpone *continentia cause*, quhilk is *tantum in civilibus*. bot only vpon this, *qui priuent consimilem causam, et allegantium socij ejusdem criminis*. The Laird of Grange being als pannell, for this sam cryme, this day, *quando ex pacto vnus prejudicabis alteri*, quhilk is nocht lesum of the law directlie, far les in this caus, be removeing of the Laird of Grange of pannell. And quhair it is allegit, that the Judge is nocht bund to gif ansuer, it is ansuerit thairto, that quhair anie declinatour is referrit to judge, he aucht to gif ane ansuer vpone his conscience; lyke as, this pairt of the alledgeance is referrit to the Judge and Affeffouris conscience, quhither the Laird of Grange is removit af pannell purpoissie?

The Judge, with advyse of his Affeffouris, repellis the alledgeance proponit for the personis presentlie vpone pannell.—The Judge ordanis the dittay to be red to the haill pannell.

The pannell takis instrumentis, that my Lord Aduocat the first and second heidis of dittay and will persew the reft heidis;² as also declairis, that he will insist aganis euerie ane of the pannell vpone the saidis heidis.

The aduocat declairis, that he vffis the haill speaches vterit be Mr Walter³ in

¹ Excipientis.

² Record mutilated.

³ See the Trial of Walter Balcanquall.

Pulpitt, contenit in the *ffirst* article of the Dittay, as meanis vfit be him to steir vp auditouris to seditione; quhilk the pannell hard and allowit, be pertineing to the new Kirk, and doing the actionis, and vtering the tressonabill speiches contenit in the first Article of the said Dittay, and being airt and pairt thair of. And forder, the Aduocattis (haldis?) thir woirdis ‘conceilling and nocht reveilling of the preiching,’ *pro deleto*; quhairvpoun the pannell takis instrumentis.—It is allegeit be the pannell, that na proces (lies) aganis the pannell, becaus Mr Walter Balcanquell, quha is alledgit to be author of the Conspiracie and alledgit feditionous Conventioun is nocht callit; and alledgit the practik betuix Lyndsay of Blariefadden and the Laird of Kerse, the Lady Boydis aduocat.—The aduocat answaris, the alledgeance aucht to be repellit, in respect of the Dittay.¹

It is alledgit, that the Conventioun in the New Kirk is na cryme, let be² a cryme of Tressoun; becaus it is na cryme, of the Law, convening, except it be in airmes; and the Conventiones of Sinodellis and presbytereis, and generall (Affsemblies?) ar allowit be his hienes Actis of Parliament; as als, of all perticuler seffionis of Kirkis.—The aduocat answaris, the alledgeance aucht to be repellit, in respect of the Dittay.

It is forder allegit, that the Convocation is na cryme, becaus it is allowit be speciall Act of Secreit Counsaile maid in anno 1590, demanding all Erles, Lordis, Barronis, gentilmene, frehalderis and inhabitantis of burrowis and vtheris liegis quhatsumeuir, of quhat rank degrie soeuer thay be, to convene thame felfis befor the Ministeris, be thair Missaue lettres or messingeris, at quhatsumeuir places or dayis thay fall think expedient; and thair to gif thair Confessionis of thair fayth and subscriptionis thairto, and to the Generall Band maid and subscryuit be his Maiestie and certane of the Estatis, tuching the maintenance and defence of the trew religioun, his hienes person and estait, for withstanding all forrane propagatouris, tending to the trubling thair of, and forces tending to the trubill thair of. And trew it is, that thai, being exhortit be the Ministeres, haveing power be the said Act to convene with thame, to the effect foirsaid, viz. for maintenance of the trew Religioun, and withstanding of the ennemeis thair of, and na vthirwayis; nather the said Ministerie did wrang in convening, nor the pannell in convening at thair command. And forder, thair was speciall Proclamatioun execute at his Maiesteis command, vpone the ix day of December lastbypast, quhairby his hienes, with advyse of the secreit Counsaile, expresselie declairit, that his mynd and intentis was nevir to discharge ony laifull Assembleis of the Kirk establischt be the lawis, becaus the Seffionis, bayth of the Kirk, Presbytereis, Sinodell and Generall Assembleis, and all actis laifullie maid be the Ecclesiasticall Judge-

¹ (On the margin,) ‘Repellis the alledgeance.’

² Not to mention.

mentis, and als the hering of the word, fall stand and be yet as of befoir, ratefeing and approveand the famin; and declairing, that it was nevir his Maiesteis mynd nor intention to impung or preiudge the famin, in ony foirt; and declairing all vthiris Proclamatiounes and vnlawfull convocationes, maid in airmes, to be dischargit. And his will is, that the said conventioun was onlie maid to the effect foirsaid, without all armour, and in sober maner, and was maist lauchfull in itself, and was dissoluit be the pannall without airmour: And the discharge of conventionis with airmour, is a permissioun of the conventionis without airmour, tending to the lauchfull effect. *L. cum Prece. ff. de Judicijs.* In respect quhairof, thay did na wrang, and can nocht be put to the tryell of ane Assyse for the said Convocatione. And for preifeing the said alledgance, the saidis excipientis produceit the Act of Secreit Counsale, in prent, with the coppie of the Proclamatioun, of the daitt the ix of December last. It is ansuerit be the Advocat, the alledgance aucht to be repellit, becaus the Act of Counsale produceit gifis nocht absolute power to all Ministeris to convocat and convene the legis with thame, at thir plesour; bot the particuler Commiissioneris to convocat the legis resident within the boundis of the Commiission, for the causis exprestit in the summondis; and to wit, for geving Confessioun of thair flayth, subferying the Band for defence of the Religioun, his Maiesteis estait and persoun, and withstanding of the sforane preparatioun, maid be strangeris, in contrair thairrof; quhilk is nawayis aggreabill to the case set down in ditta; becaus the samin beiris, that the legis was convocat be Mr Walter Balcanquell, haueing na power gevin to him be the said Sessioune to convocat his hienes leigis; and the personis convocat war nocht subiect to thair jurisdictioun, bot sum of thame inhabitantis of the Sherefdom of Fyfe, sum of Angus and Mairnis, vtheris of Tueddell, Cliddisdaill and Leninox; and sua, nawayis subiect to the Commiissioneris of the sherefdom of Edinburgh. Last, thay war nocht convocat to the effectis contentit in the Act of Counsale; bot be the contrair, to invaid his Maiesteis maist nobill persoun and tronbill his estait, as the dittay beiris; nather can the samin Act mak ony fayth, becaus it is nocht autorizit be the subscriptione of the Clerk of Counsale, bot imprentit be Robert Waldegraue, quha is convict be ane Assyse of falssefeing of his hienes Actis of Parliament. And for the mair cleir verificatioun of the falsat of the said Act, the advocatis producis his Maiesteis authentik beirand na sic Act of Counsale to be; and as to the coppie produceit be the defenderis, of the dait the nynt of December, *non facit fidem*, becaus it is nocht subferyuit autentiklie.

To the quhilk it is ansuerit be the pannell, that the foirsaid alledgance standis relevant, nochtwithstanding (the alledgance?) made in the contrar; and speciallie, anent that pairt of the alledgance tuiching the Convocatione, and that the same

is nocht a tressonabill cryme; to the quhilk there is na anfuer maid be my lord aduocat. And quhair it is alledgit, that the Conventioun is only limitat to the particular boundis quhair the parteis duellis, it is anfuerit, it is na argument to mak the Convocatioun vnlawful; ffor gif it was lawfull to convene in thir tua schyres, it is lawfull to convene in quhatsumener vtheris placeis; bot speciallic, that pairt of the alledgance aucht to be repellit, in respect of the expres woirdis of the Act, giving power 'to convene quhatsumenir dayes and placeis.' And quhair it is alledgit, in the secund part of the alledgance, that thair was na power to the said Mr Walter to convene; it is anfuerit, that thare is expres power gevin to Mr Robert Bruce and certane vtheris, quha (were) pressent in the said place, to convene: And the said Mr Walter and the hail Prebiterie, *est unum corpus*, and quhatsumenir he did was be the directioun of the rest of the brethren haifing power. And quhair it is alledgeit, that thai haif only power to tak Confessioun of the ffayth and subscriptioun of the Band; it is replyit, that the said Conventioun was only to that effect, and to gif Confessioun of the Religioun, and for the maintenance thair of. As to the argument maid anent the Act, that it is only printed, and nocht subferyuit be the Clerk of Counfall, and that Waldegraue is convict for ffalfe imprenting of the Act of Parliament; it aucht to be repellit, in respect of the Priviledge permittit; the Warrant subferyuit be the King past the Privie seill and registrat in the buik thair of; lyke as, the samin Act of Secreit Counfall, as it now standis printit, is registrat in the buikis of secrete (Counfall), as falbe verifeit be the Register: And as to Walgraves convictioun, *est super alio facto*, and nocht for this act; and quhatsumenir convictioun subfequent deduceit aganis him, it can nocht preiudge this pannell, and that quhilk wes lawfullie maid of before. Last, as to the argument maid anent the Proclamatioun, it nawyis militatis, accepting alwyis the dait thair of, quhilk wes vpoun the xxiiij day of Nonember lastbypast, and is interpret be ane posteriour Proclamatioun, maid vpone the ix of December thaireftir; and declairis all Actis maid in fauor of the Kirk to stand effectuell, and dischargeis Convocatiounis maid in armes alluterlie. And the pannell protestis that this argument, maid anent the Conventioun in the New Kirk, may be sennerallie diseussit fra the vther subfequent cryme, anent the taking of armes and assaigeing of his hienes persoun, seing the Conventioun may be lawfull and the vther vnlawfull. In respect of the quhilkis premissis, absolutour¹ aucht to be gewin to the conventioun in armes.—The Aduocat repetis his former anfuer.

The pannell offeris thame reddie to be put to the tryell of ane Assyis for the SECUND heid, the samin being maid speciall anent the names of his Maiesteis seruitouris and his counsaieuris.

¹ Acquittal. Lat. *absolvere*.

As to the THYRD point of the Dittay, anent the Conventioun in Mr Robert Bruce galrie, and directioun of certane Commiffioneris, with fuitis to his Maieftie: firft, as to the conventioun maid efter none, repetis the anfuer maid of-befoir; speciallie, that the famin is lauchful, and permittit be expres law, and wes nocht maid in armes: And forder, his Maieftie directit my Lord of Marr and my Lord Vchiltrie, and defyrit to convene with Mr Robert Bruce; as alfo, directit Traquair and Cefurd, that the Articles of thair greiffis¹ fould be prefentit to his Maieftie and his Counfall, at efter none; and fwa, did na wraug, nather in thair conventioun nor directioun of the Commiffioun, feing the famin procredit be his Maiefteis allowance, and wes vthirwyis lauchfull, for the caus aboue fpecifeit.—The Aduocat anfwerit, that the faid alledgeance aucht to be repellit, in refpect of the Dittay and anfueris maid to thair alledgeances, foundit vpoun the alledgeit lauchfulnes of thair Convocation; as lykwyis, the faid alledgeance can nocht be reffaut in this place, becaus it is *meri facti*, and is nocht instantlie verifeit, nather is it open to the Judge, but man be remittit to the Affyife; and gif the Judgeis will dip vpoun the tryell of it, the famin man be repellit, nocht only as irrelevant, bot alfo vntrew, as is notourlie knawin to the Judge and Affeffouris: And for thair better refolution, maid cleir be his Maiefteis Declaratioun, fufberyuit with his hand, prefentlie produceit.—It is anfuerit be the pannell, acceptand alwyis his Maiefteis Declaratioun produceit, *in quantum*, that nocht only is thair alledgeance fufficientlie verifeit, becaus it is notour to the Judge and his Affeffouris; bot alfo, it is verifeit be the Aduocat, and pingeis² bayth the Conventioun cuning doune.

FINALLIE, as to the laft cryme contenit in the Dittay, it is nather relevant nor contenis ony maner of cryme; ffor fyrft, as to the Conventioun vpoun Fryday att ewin, it is anfuerit *et supra*. Nixt, as to the procureing of Nobilmen and vtheris to be vpoune thair faction, and pairt-takeris of thair caus, *non releuat*; feing it nather condifcendis quhat Nobillmen, quhat factioun, or quhat caus; or quhat the Noblemen wes defyrit to, nor quhat meffageis wes direct, be quhom, or to quhom, or to quhat effect, and quha wes the beraris of the faid meffage; and fwa, it contenis na treffonabill crym: Bot speciallie, it is newir affirmit that thir perfonis on pannell directit, or procureit ony meffageis to be direct, to ony treffonabill effect.—The Aduocat anfwerit, that the alledgeance aucht to be repellit, in refpect of the Dittay berand, that thay convenit to auife how to procure the affiftance of ane factiounne, to fortifie and affift thame in thair treffonabill interpryfis, contenit in the preceeding Articles of the Dittay. Lyke as, the faid laft Article beris playnlie, that the lettres direct and the Band proponit, tendit to the famin effect. The pannell defyrit the Aduocat to produce the Band.

¹ Grievances.² To *peenge* or pingie, to complain.

(Feb. 12.)—INTRAN. Robert Hammiltoun of Inchmauchane, Sir James Edmestoun of Dunraith, and James Lokart of Ley.

INTERLOCUTOR *on the relevancy of the Dittay, &c.*

(1.) The Judge Repellis the alledgance, anent the fyrst discussing of Mr Walter Balcanquall. (2.) The Justice findis the fyrst pairt of the Dittay concerning Convocationne, and the circumstances qualifeit and contenit in the said first Article Relevant; and Ordanis the famin *conjunctive* to pas to the knowledge of ane Assyse, nochtwithstanding the alledgance maid aganis the famin. (3.) Item, the Justice findis it is nocht necessar that the Aduocat condiscend particulerlie vpoun the names of the Kingis Counsalouris or domestik seruitouris; and findis that point of the Dittay relevant, as it is constant, nochtwithstanding of the alledgance maid in the contrar. (4.) The Justice findis the thryd point of the Dittay relevant; and Ordanis the famin to be put to the knowledge of ane Assyse, becaus it is coincident with the circumstances contenit in the fyrst Article. (5.) The Justice Ordanis the Aduocat to condiscend, in speciall, vpoun the names of the Nobilitie to quhome the Missiues wes direct; and being condiscendit vpoun, findis it relevant.

The famin day, Mr Andro Blakhall maid fayth.

The Pannell askis instrumentis of the haill Interloquitour pronounceit.—The Aduocat declaris that he passis fra that pairt of the article, concerning the directing of the Missiues, *pro loco et tempore*. Quhairvpoun the haill pannel askit instrumentis.

INTERLOCUTOR. The Justice, estir that my lord Aduocat had deleit certane wordis, anent the directing of Missiues, fand the rest of the latter point of the Dittay relevant; and ordanit the famin to be put to the tryell of ane Assyse.

The aduocat takis instrumentis (that he) repetis the conclusioun of the last heid, in the conclusioun of ewerie ane of the pointis of the Dittay.

ASSISA.

James Foullis elder of Colingtoun, Thomas Kennedie of Ardmillane, Thomas McDougall of McKair-
George Logane of Boningtoun, Johnne Naper, younger of Mer- stoun,
Patrik Home of Aytoun, elhinstoun, . . . Kennedy of Penquhirry,
. . . Stewart of Dunduf, James Ritchertfoun of Smetoun, . . . Mure of Auchindrane.¹
Mr James Foullis y^r of Colingtoun, Walter Dundas of that ilk,

EXCEPTIONS *against the persons summoned to pass upon the Assise.*

Mr Johnne Russell produceit ane exemptionn for *the Laird of Corstorphin*, vnder the Previe seill. The aduocat alledgit the famin aucht nocht to be admittit.—Mr Alex^r King producet ane exemptionn for *the Laird of Bass*, and repeittis the Act of Parliament, in respect he is a Counfallour. The aduocat repeittis his former anfuier thairaganis.—Mr Johnne Nicolfoun produceit ane exemptionn for *the Laird of Cokpen*. The aduocat repeitis the former anfuier thairto.—The pannell allegit that *Johnne Kennedie of Banquherrie* can nocht pas vpone the Assyis, becaus he is nocht a barroune, and sa nocht thair pair.

¹ The infamous John Mure, the Murderer of Sir Thomas Kennedy of Culzean. See the extraordinary Trials of John Mure, Jun. 24, 1602, &c., and of the Laids of Auchindrain, elder and younger, and James Bannatyne, Jul. 1611.

INTERLOCUTOR. The Justice, with anife of his Affeffouris, in respect thair is nocht ane sufficient number of Affyis present this day, continewis the dyet to the xiiij of Februar instant, and the hail number of Affyife present and summond to this (diet), to compeir vpoun the said xiiij day, vnder the pane of twa hundreth markis : And continew Interloquitour, vpoun exemptiones to the said day : And ordanit the pannell to remain in waird, as thay did ofbefoir.

The famine day, William Sinclar of Roisling, ... Cokburne of Clarkingtoun, Johnne Lewingstoun of Prestoun, Andro Ker of Phairnieherft, Henry Pitcarne of Ramfyis-Forfar (Forthar,) Sir Johnne Carmichael of that Ilk, and Patrick Moscrop, burges of Edinburghe, oft tymes callit to haif compeirit before our fouerane Lordis Justice or his deputis, the saidis day and place, in the hour of caus, to haif past vpoun the Affyis of James Lokert eldar of Ley, Sir James Edmestoun of Duntrait knycht and Robert Hammiltoun of Inchmauchane, dilait of certane Treffonabill crymes, committit be thame, vpoun the xvij and xviiij dayes *respectiue* of December lastbypast, as thay wer lauchfullie summond to ; the lauchfull tyme of day biddin and nocht comperand, thay and ilk ane of thame wer thairfore vnlawit, in the pane of ane hundreth markis.

(Feb. 14.) It is allegit be the pannell, that na vther personis of Inqueist aucht to be callit or reffaut this day, vnto the tyme it be proceidit quhair it left, viz. that the tuelf personis of Inqueist quha wes summond be the Kingis Maiesteis Thesaurer, conforme to the roll producit be the Thesaurer, in judgment, and thairefter war reffaut but objection, with consent of all the parteis, being the first callit ; but that *res non est integra* to accept ony vtheris, except thay be lauchfullie absent : speciallie, it being of veritie that thay ar all heir present, and thairfoir thay being anes buikit, reffaut, be consent of parteis, and now present in this Tolbuith (of Leith), accoirding to the Justice commandment, chargeing thame to be present, vnder the pane of ij^c merkis, na vther personis can be furrogat in thair place.—The Aduocat answers, that the nominatioun of the saidis personis and the buiking of thair names can woik nathing in this caus ; becaus salang as the personis of Affyse is nocht fuorne and admittit, *omnia sunt integra*, to the Judge, quha may ather call thame of new, sueir and admit thame, or call vthiris and omit the first. As to the allegit consent, it is altogidder denyit.—It is answert, that the summonding, buiking, setting down of the Affyse is ane sufficient consent and reffaut, speciallie the famin being done in presens of the aduocat, without contradictioun ; and the saidis deidis nocht being privie, bot iudiciall deidis, quhilkis in all caussis, bayth Criminall and Ciuill, bindis bayth the parteis. The aduocat repeatit his former answer.

INTERLOCUTOR. The Justice, (with) anife of his Affeffouris, Repellis the alledgeance proponit be the pannell ; and ordanis that the Affyfouris, summond to this day, to be reffaut ; in respect that the Affyse that wer buikit the xij of Februar, and continewit to this day, wes nocht fuorne.

Quhairupoun the pannell askit instrumentis.

It is allegeit be the pannell, that *Sir Robert Ker* can nocht pas vpon the Affyse, for thre caussis : first, becaus he hes informit and solisfit aganist the Laird of Grange, quha was pannellit vpon the famin dittay *et habet causam coniunctam* : Nixt, becaus he is domestik seruitor to his Maiestie ; and, as in ciuill judgementis betuix his Maiestie and ony of his subjectis, he could nocht be witness, mekil les can he be Affysour, to cognosce vpon ane cryme allegeit committit aganis his Maiesteis persone : Thridlie, nocht only is he seruand to his Maiestie, bot he is partie allegeit to be grevit ; insafar as it is expresse set down in the Dittay, that his Maiesteis haill seruandis was commandit ‘ to be sroupit af the gait and to sroup the calsfay with thame,’ quhilk is the maist speciall circumstance of the haill Dittay, and the famin addmittit coniunctlie with the haill circumstances : And thairfor, he being ane of his Maiesteis domestik seruandis and ane of his houshold, be the Dittay he is partie, and consequentlie can nocht be ane Affysour — The Aduocat answeris, that the first pairt of the allegiance aganis the said Sir Robert, as haueing gevin partiall counsell aganis Williame Kirkcaldie, is nawayis competent to this pannell, becaus *delicta sunt personalia*, and thair is nocht sic a thing as *continuentia cause* or *causa coniuncta* in this cace, quhair euerie man is challanget for his awin offence, personallie and principallie, and nocht as complecis to the said Williame or ony vther. Nather is the secund pairt proponit aganis the said Sir Robert, as domestik seruand to his Maiestie, onywayis relevant ; becaus the deutie of a subiect comprehendis the haill effectioun that can be borne to the Prince be his natieue subiect, and the qualitie of a domestik seruand eikis nathing thairto : And as the Kingis Maiestie mycht sit in persone and judge in his proper cause, or depute his counsalouris or domestikis to be judges or Assesouris, sa may thay be Affysouris : Lyk as, thair is dyuerse practikis past in the Kingis proper caussis befor the Justice, as laitlie the caussis aganis Ewfame M’Kalseane and Barbara Naper, quhair the maist pairt of the Affysouris war domestik seruandis to his Maiestie ; this famin alledgeance being than proponit and repellit. As to the last obiection, that he is partie grevit, it is als irrelevant, becaus the pannell hes na partie bot the Kingis Maiestie, and ar only accused for Treffone aganis his Maiestie and estait ; and thairfor the said alledgeance aucht to be repellit.

It is forder allegit aganis *The Laird of Sesfurd*, that he can nocht be vpon this Affyse, in respect of the deidlie feid standing betuix Robert Hammiltoun on the ane pairt, and the kin and freindis of William Home of Coldounknowis, quha is secund and thirdis with the said Laird of Cesfurd, on the vther pairt. — It is answerit be the aduocat, that the alledgeance aucht to be repellit, except it war qualifeit, the said Laird of Cesfurd to be partakear of the said deidlie feid ;

and forder, it is na relevant obiectionn aganis the vthir tua, becaus it may verie weill be, that the ane be clene and the vther tua foull, *aut contra*.—It is anfuwerit, that the caus is sa conjunct and can nocht be devydit, and thair is litescontestatione maid in this caus aganis thame all.—The aduocat anfuweres, thair is na litescontestatione maid, vnto the tyme an Assyfour be fuorne.—Anfuwerit be the pannell, that the repelling of the defenssis and proceiding to the electioun of the Inqueist and proponing of the obiectionis aganis said perfonnes, is nocht litescontestatione.

It is alledgit aganis *The Laird of Carmichell*, that he can nocht pas vpone this Assyse, in respect of the obiectionis proponit aganis the Laird of Sesfurd, and namelie the said deidlie feid, quhilk the pannell repetis, standing betuix the said Robert Hammiltoun and the laird of Waftra, for the slauchter of his father, to quhome the said Laird of Carmichell is thrides of kyn: And forder, allegis that bayth he and the Laird of Sesfurd ar of his Maiesteis Counfall, quhais slauchter is allegit to be conspyrit; the famin being speciall circumstance of the Ditta, sua that they are bayth parteis in effect.—The aduocat repetis his former answere, and that thair being counsalouris to his Maiestie, makes thame to be mair qualifeit and les suspect to pas vpone this Assyse. The pannell repetis the famin alledgeance maid aganis the Laird of Sesfurd, auent the feid betuix Robert Hammiltoun of Inchmauchane, to quhom *the Laird of Pharnherst* is kynifman in the lyk degree.—The aduocat repetis his former answere, maid to the obiection aganis the Laird of Sesfurd.

It is allegit, that *Sir Thomas Erskene* can nocht pas vpone this Inqueist, in respect of all the alledgances proponit aganis the Laird of Sesfurd, except the deidlie feid, as secund and thirdis of kyn and betuix; and forder, he is nocht ane barroun, thair being tua barronis vpone the pannell.

The pannell proponis aganis *The Sir Robert Meluill Younger*, that he can nocht pas vpone this Assyse, in respect of the haill alledgeances proponit aganis the Laird of Sesfurd, quhilk thai repeat: and forder alleges, that the said Robert is na barroune.—The aduocat anfuweris, that he is barroun of Brunteland.—The pannell anfuweris, that his Infeftment is tane away be Act of Parliament.

It is alledgit, that *The Guidman of Manderstoun* is na barroune.

It is allegit, that *The Laird of Ruthven* can nocht pas vpone this Assyse, in respect he is nocht xxv 3eiris of aige; and as he may nocht be a juge nor a tuteur, na mair can he pas on ane Assyse.—It is anfuwerit be the aduocat, that the famin aucht to be repellit, in respect he is past xxj 3eiris.

THE Justice Repellis *The Laird of Ruthven*, in respect of his awin declaratione, that he is nocht xxj 3eiris of aige.

As for *The Laird of Robertland*, repetis the haill alledgeances maid aganis

the Laird of Sesfurd : And forder, it is alledgit that he can nocht pas vpone this Affyse, in respect of the deidlie feid standing betuix the Cunninghames and Montgomeries ; the Laird of Duntraith being thridis of kyn with the Erle of Eglintounne that deid in the Cannogait.—The aduocat anfuieris, it aucht to be repellit, except he be partaker of the feid, quhairof the contrar is notour.—It is allegit, the Band makis the feid.

ASSISA. Sir Johnne Gordoune of Lochinvar, Thomas Makdougall of M^eKairstoun.

The pannell repeatit the haill allegiances aganis *Sir Hew Carmichell Youngar*, quhilkis war maid aganis the father.—The aduocat repeatit his anfuier.

It is allegit that *Mr Williame Leslie of Cuullic* can nocht pas vpone this Affyse, in respect that he is a Prelat ; and forder repeatit the haill allegiances maid aganis his Maiesteis domestikis.—The aduocat anfuieris, it aucht to be repellit, in respect of the present estait of the Kirk.

It is allegit aganis *Mr Patrik Mortoun*, that he is nocht landit, and that he is a kirk-man, and can nocht be reffaut. The aduocat repeatit the former anfuieris.

[CURIA JUSTICIARIE tenta in Pretorio deLeyth, per M. Jac. Foulis, J. D.]
Forgery of an Act of Parliament, and getting it printed and circulated.

Feb. 21.—Mr JOHNNE HOWIESOUNE, Minister att Cambuslang.

Dilatit of the tressonabill falcifeing, forgeing and feinzeing of an alledgeit Act of Parliament intitulat, ‘ Anent the aboleifching of þe Actis contrar the libertie of þe trew Kirk and aboleifching of þe Jurisdictione, as maid in þe Parliament haldin att Ed^r the penult day of Maij, the 3eir of God I^mV^olxxxxij 3eiris ;’ corruptand thairby ane trew Act of Parliament concerning the said mater, maid be the Kingis Maiestie and thre estaits, in the Parliament haldin at Ed^r vpoun the fyft day of Junij, the 3eir of God I^mV^olxxxxij 3eiris, intitulat, ‘ ffor aboleifching of þe Actis contrar the trew Religioune ;’ quhilk trew Act being tressounable falcifeit, corruptit, alterit, and in sum pairtis eikit be him, and in vther substanciall articles thairof pairit ; as the samin, conferrit with the said fals Act schawin and produceit, bure, he delynerit the said fals Act in the moneth of Maij or thairby, in the yeir of God I^mV^olxxxiiiij 3eiris, to Robert Waldgrave, prentar, moveit, perfwadit, vrgeit and intyfit the said Robert to imprent the samin and publeis itt, as haifand the Clark of Register autentik Warrant of the samin subferyuit with his hand, and the Kingis Maiesteis priueledge for imprenting thairof : And incontinent eftir the said Mr Johnnis causing, command, assistance and ratiha-bitionne, the said Robert had imprentit the samin, the said Mr Johnne bocht and reffaut fra the said Robert fourtie or fiftie copeis thairof, and tressonable

publeiffit and difperfit the famin amangis our fouerane lordis liegis ; in manifeft and oppin contempt of his hienes authoritie and lawis, and he wes authour, perfwader, airt and pairt of the falcifeing, imprenting and difperſing thair of, and thairby committit Hie Treffoun, and aucht and fould incur and vnderly the pane thair of.

PERSEWAR, Mr Thomas Hammiltoun of Drumcarne, aduocat.

The ſaid Mr Johnne Howieſounne becummis in the Kingis will, according to his Confeſſiounne, maid att Halyruidhous the xv. of Februar instant. The ſaid Mr Johnne takis inſtrumentis, that he apperis heir vnſummond and vnwardit. The ſaid Mr Johnne Howieſoun alledgeis, that he knew na thing of that Act of Parliament that he gaif in to be prentit to Robert Waldgrave, quhair of he is preſentlie accuſit, bot that it had been the trew Act according to the Register ; and that he gaif it to him as it was gewin to him be Gylbert Tailzeour, ſafar as he knawis, with vthir Actis of the Generall Aſſemblic ; and that Robert Waldgrave, being deſyrit be ſum of the bretherene, to print that Act quhilk wes pronuncet att Dundie to the Generall Aſſemblic thair, the ſaid Mr Johnne, thinking that it had bene trew as he had it in his buik, delyuerit the ſaid buik to the prentar, quhilk contenis mony maer Actis nor the ſaid Act : And als, he gaif him no command to prent the ſaid Act. And as to the Dittay, as it is conſauit aganis him, denyis it euerie word, except ſafar as greis with his Depoſitioun and Declaratioun ſubſcryuit with his hand, and his preſent declaratiounne. For the quhilk he becumis in his Maieſteis will.

The aduocat produceis Mr Johnne Howieſounis Depoſitioun, ſubſcryuit with his hand, togidder with Robert Waldgrais Depoſitioun, togidder with the fals imprentit Act, with the autentik Act ſubſcryuit be the Clerk Register, for veriſeing of the Dittay. The Aduocat proteſtis, inſafar as be the Depoſitiounne produceit in proces, ſubſcryuit with the ſaid Mr Johnnis awin hand, it is confeſt, that he delyuerit the ſaid Act quhilk wes prentit be Robert Walgrave, for the quhilk the ſaid Robert wes wairdit ; and that he had na Warrant of the Clark of Register, nor ony vther, to delyuer that Act to be prentit, quhilk wes done be him of ignorance ; ffor the quhilk he become in his Maieſteis will : As lykewyis, be his Declaratioun dytit be him ſelff and writtin, in proces, the famin Confeſſioun and becuming in will is in effect repetit and mair amplie declarit, and of his awin buik produceit out of his awin hand, to be ſene be the Aſſyſe, and confeſſit to haif bene delyuerit be the pannell to Robert Waldgrave, as contenand ane copie of the Act, quhilk ſum of the bretherene of the Miniſterie blameit the ſaid Robert to haif omittit in the impreſſiounne of the remanent Actis of the Kirk : And that be conference of the copie thair of contenit in the ſaid buik with the imprentit Act, it is fund to agrie with the ſaid prentit Act word be word,

and the said copie and prentit Act being red to the Assyis and fund altogidder disconforme to the trew and autentik Act extractit and subseryuit be the Clark of Register, lykewyis produceit in sam proces, the said prentit Act omittand mony of the substanciall heiddis of the trew Act, and in vthir partis eikand clauffis and articles nocht contenit in the said trew Act: And that it is confessit lykewyis be the pannell, that he bocht diuerse of the said prentit Actis fra the said Robert Walgrave, as vtheris Ministeris did, and disperfit sum of thame to Ministeris, quhilk man of necessitie infer foirknowledge of the prenting of the said Act, and ratiabilitoun eftir it wes imprentit; in cais the Assyis acquyte the pannell of airt and pairt of the said cryme, protestis for Wilfull errorr.

The said Mr Johnne Howiesoune Protestis, that na thing alledgeit be his Maiesteis aduocat can ony wyis hurt or indamage the said Mr Johnne, vnles that he had confessit that he had athir forgeit or writtin the Act quhairvpoune he is accusit, quhilk he did nocht; nor 3it gaif ony copie thairto to Robert Waldgrave, bot only schew to him the said buik, with the leif thairto laid in, quhair the Act standis yit as it did thane; nather did he gif him ony command to imprent the samin; and thairfore the said Mr Johnne alledgeit he aucht to be acquyte of the Dittay according to Justice and guid conscience; quhilk he belewis the Assyis will do, and will nocht tak innocent blude vpoune thair heidis.

VERDICT. The quhilk day, Mr Johnne Howiesoune Minister at Cambuslang being enterit on pannell, dilatit, accusit and persewit be Mr Thomas Hammiltoune of Drumcarne and Williame Haert of Lewielandis aduocattis to our souerane lord for his hienes interes, for the tressonable falsefeying, &c. (here the Dittay is repeated.) The quhilkis crymes, the said Mr Johnne, eftir reding of his said Dittay and accusatioun, alluterlie¹ denying, eftir diuerse alledgeances and declaratiounis maid be him of his innocencie thairto, and ansueris maid thairto be the Aduocattis, he offerit him to the tryell of ane Assyise for the saidis crymes: And thairfore the Justice-depute patt him to the tryell of ane Assyis of the persones vnder written, thay ar to say Cornelius Cudbert Merchand burges of Edinburghe,² &c. Quhilkis persones being chosin, sworne and admittit, and the said Mr Johnne Howiesoun being accusit, be Dittay, of the crymes aboue writtin in thair presens: Lyke as the saidis persewaris produceand the said Mr Johnnis Depositionn subseryuit with his hand, maid in presens of the Lordis of Secreit Counfall, att Halyruidhous the xv of this instant, togidder with the Depositionn of Robert Waldgrave subseryuit with his hand, maid in the Tolbuith of Edinburgh, quhair he wes wardit, the sewint of Februar instant, togidder with the said fals im-

¹ Entirely, altogether.
and 'burgeillis' of Edinburgh.

² It is not necessary to insert the names. They are all 'merchandis'

prentit Act of Parliament, and the trew Act of Parliament extractit furth of the Register, subferyuit be Mr Johnne Skene Clark of Register, to the saidis personnes of Assyis, for verifeing of the Dittay; thay remowit altogidder furth of Court, to the Counsal-hous, quhair thay eftir chefing of the said Archibald Geddes (merchand burges of Edinburgh) chancillar, be pluralitie of votis, thay reasonit vpoun the pointis of the said Dittay, and thaireftir votit thairvpoun; and being throuchlie resoluit thairwith, reenterit agane in Court, quhair thay be the mouth of the said Chancillar, fand, pronounceit and declarit the said Mr John Howiesoun Minister of Cambuflang, to be fylit and conuict of the delyuerie of ane alledgeit Act of Parliament intitulat, ‘Anent þe aboleifching of þe Actis contrair þe libertie of þe trew Kirk, and aboleifching of þe iurisdiction as maid in þe Parliament haldin att Edinburgh þe penult day of Maij 1592;’ and that in the moneth of Maij or thairby, the yeir of God 1^m.V^c.lxxxxiij yeiris, to Robert Walgrave prentar, to be prentit. Quhilk alledgeit Act is eikit, alterit and pairt¹ fra the trew Act of Parliament maid be the Kingis Maiestie and his thre Estaitis, in the Parliament haldin att Edinburgh, the fyft day of Junij 1^m.V^c.lxxxxiij yeiris, intitulat, ‘ffor aboleifching of þe Actis contrair þe trew Religiou:’ As the famin, extractit and subferyuit be the Clark of Register beris: And eftir the famin being prentit, for reffauing and bying of ane certain number prentit copeis thairof fra the said Robert,² and diftributing and difperfing of the famin amangis our fouerane lordis liegis: And fand the said Mr Johnne Howatsoun to be cleane, innocent and acquit of all vthiris pointis, heidis and clauffis, contenit in the Dittay and accusatioun aboue writtin, gevin in aganis him.

[*Curia tenta in pretorio de Leyth, per M. Jac. Fowles, J. D.*]

Forging and Uttering Base Coin.

Mar. 15.—ALEXANDER NEILSOUN (ARNEILL.) burges of Glasgw.

Dilatit of the tressonabill fforgeing, counterfuting, prenting and out-putting of ffals and adulterat money, sic as twa penny-plakis, half markis and fourtie penny pecis, to the availl of ffyve hundreth poundis worth, (within his awin hous in the New Wynd of Glasgw); committit in the haill monethis (of the years) 1592-93-94 and 95, and in the monethis of Apryll, Maij, Junij, Julij, August and September last.

VERDICT. The Assise (with the exception of four, who ‘ffyle’ him of out-putting of fals twa-penny-plakis) Acquit the said Alexander Arneill.

¹ *Pared*, abridged.

² See the case of Robert Waldegrave printer, Feb. 2, 1596-7, &c.

Murder — Hamesucken.

Apr. 11, 1597.—PATRIK CWNINGHAME, seruand to vmq^{le} Dauid Edmestoun of Burnhouffis.

Dilatit of art and part of the crewall murthour and slauchter of vmq^{le} George Prestoun of Halthrie ; committit in September, anno

Declaris, that he past away with the said vmq^{le} Dauid Edmeston of Burnhouffis, and that he was haldand his horse quhill he come bak.—Mr Johnne Prestoun takis instrumentis vpoun the admissioun and fwering of the Assyis.

VERDICT. The Assyis in ane voce convictis and fylis the said Patrik Cwninghame, seruitour for the tyme to vmq^{le} Dauid Edmestoun of Burnhouffis, off art and part of the crewall Murthour and slauchter of vmq^{le} George Prestoun of Halthrie ; committit the vj of December 1588, be way of Murthour and Hamesuckin, vpoun sett purpois and prouisioun.

SENTENCE. ‘Convict et decollat.’¹

[*Mr Williame Haert of Lericlandis, Justice-Depute.*]

Parricide.

Jun. 15.—WILLIAME MOW, hatmaker, burges of Edinburgh.

Dilatit of the abhominabill cryme of Paracide, in hurting and wounding of Andro Boirthuik burges of the Cannogait, his guid-fader ;² committit the xiiij day of Februar lastbypast.

PERSEWAR, Mr Robert Lyntoun Aduocat substitute to Mr Thomas Hammiltoun of Drumcarne.

The quhilk day, the said Justice-Depute producit the Warrant vnderwrittin, quhilk he desyrit to be infert in proces ; quhairof the tennour followis.

REX,

JUSTICE and Aduocatis, We greit 3ow weill. It is our will and we command 3ow, that vpoun the sicht heirof 3e faill nocht to insift in accusatioun and tryell of 3e vnworthie attempt of Williame Mow hatmaker, aganis Andro Boirthuik his guid-fader : And gif he becum in our will for 3e fame, that 3e accept and put him immediatelie to libertie, vpoun sufficient caution fund be him, to vnderly quhat ewir we fall declair heireftir to be our will, for his said cryme ; vnder 3e pane of ane thowfsand poundis : Kepand 3is present for 3our warrant. Subferyuit with our hand, Att Falkland, the xij day of Junij, 1597.

(Sic subfcribitur)

JAMES REX.

The quhilk day, William Mow hatmaker, burges of Edinburghe, being enterit on pannel, accusit be Dittay and persewit be Mr Robert Lyntoun, substitute aduocat to Mr Thomas Hammiltoun of Drumcarne aduocat, of the abhominabill cryme of Paricide (and) Brigancie³ vnder nycht ; committit be him vnder nycht, vpoun the xiiij day of Februar lastbypast, of sett purpois, precogitat malice and foirthocht felony, vnder cullour of freindschip, as eftir followis, to wit.

¹ The sentence and execution are recorded on the margin. ² Father-in-law. ³ O. Fr. *briganderie*.

DITTAY of Williame Mow.

FORSAMEKILL as he haifing confaut ane deidlie haitrent, rancour and malice aganis Andro Boir-thuik baillie in the Cannogait, his fader-in-law, feiring that the said Andro fould haif difponit his laudis, heretage and guidis by¹ him, he haifing na airis maill gottin of his awin body to fucced to him; the said Williame, vpoune the said xiiij day of Februar lafbypaft, being the Sabbath day eftir the preiching, tuik in heid to execute his abhominabill fact foirfaid; and traſonablie, vnder cul-lour of freindſchip and familiaritie, perfwadit his said fader-in-law to pas with him, in the foir-nycht,² furth of his awin hous in the Cannogait, be Pleafance, to the Schenis,³ quhair he affermit to the said Andro, that his guidbrothir Henry Tait hurt Johnne Fynlafoune feruand to the Laird of Roifling, quhair of he wes lyke to die, and defyrit thair to ſpeik with him; and durft nocht, for feir of his lyffe, to be ſene in the day lycht: And that he wald putt the said Williame in poſſeſſion of his ſteiding and guidis; albeit thair wes na ſick thing of veritie, bot falllie devyſit be the said Williame be ſubieſtioun⁴ of the Ewill Spreit; to the effect that vnder ſylence of nycht, the said Williame Mow mycht haif the better oportunitie to haif murthourit his fader-in-law foirfaid, ſecreitie in the feildis, vnder ſylence of nycht as ſaid is. And he haifing craſtelie convoyit the said Andro to the place foirfaid, thair being na ſic tryiſt⁵ and meting as the said Williame affermit to him, the said Andro and the said Williame re- turnit to the Potter-row,⁶ and the port being ſteikit, becaus of the nycht,⁶ he perfwadit the said Andro to pas in the nerreſt throw the Bak-row⁷ be the Toun wall, being ane privie paſſage that leidis to Pleafance; and thair, vnder ſylence and cloud of nycht, he ſecreitie, crewallie and vnumerciſullie ſett vpoune his said fader-in-law, behind his bak, with ane drawin quhingar⁸ in his hand, gripit him be the craig,⁹ and gaif him twa grit ſtraikis in the heid; doing thairby that in him lay, thair ſecreitie vnder nycht to haif murthourit his ageit father-in-law foirfaid, for greid of geir and land; quhilk he had accompliſchit, gif God had nocht ſtrentenit the said Andro to mak ſum deſens for his lyff, be griping of the said Williame in his airmes, and caſting of him vnder the ſaid Andro to the ground, and thrawing of his drawin quhingar furth of his hand; and nochttheles, haifing the said Williame in his will, ſpairit his lyffe: Quhairby the said Williame wes gilty of the cryme foirfaid, and aucht to be pwnceit thairfoir.

Eftir the quhilk accuſatioun, and reding of the Dittay to the said Williame Mow, he maift humblie ſubmittit him ſelff, and become in our ſouerane lordis will for the ſamin, and haill crymes and offences contenit in the said Dittay. In quhais will the said Juſtice reſſaut him, and ordanit the said Williame Mow to find caution, for ſatiſfaction of the said Will, vnder the pane of ane thowſand poundis; and the ſamin being fundin to be putt to libertie. Lyke as, Robert Cowdoun in Dalkeith, Williame Veich thair, Thomas Stewinfoun in Bryans and Robert Waddell baxter burges of Edinburgh, become actit and obleiſt as cau-tioneris and ſouerteis, coniunctlie and ſenerallie, for the said Williame Mow, that he ſall vnderly quhat ewir our ſouerane lord ſall declair heirefter to be his Ma- jeſteis will for the ſaidis crymes, vnder the pane of ane thowſand poundis; Lyke as alſwa, thai become pledges and ſouerteis for the said Williame Mow, that the

¹ Past. ² The early part of the evening. ³ Districts of Edinburgh, then without the walls of the city. ⁴ Suggestion. ⁵ Appointment. ⁶ The Potter-row-port being ſhut at that time of night (Sunday). ⁷ The Back-row ſtood in the line of the city wall, apparently where Drummond ſtreet is now built. ⁸ A ſort of ſhort ſword, cutlas or *hanger*. ⁹ Throat.

faid Andro Boirthuik, his kyn, freindis, tennentis and feruandis falbe harmles and skaythles of the faid Williame Mow, and of all vthir wyis, quhome he may stop or latt,¹ and that he nor thay falbe nawyis trublit, molestit or perfewit be him, vthirwyis nor be ordour of law and Justice, vnder the faid pane of ane thousand poundis: As alwa the saidis Cautioneris obleist thame and ilkane of thame to vther, to freyth, releif and keip skaythles vtheris² *pro rato* for the fourt pairt of the faid penaltie, att the handis of our souerane lord, his hienes Thesaurer and all vtheris quhome it efferis.—Williame Mow also obliged himself, in due form, to relieve his cautioners.

Slaughter.

Jul. 11.—ALEXANDER YOUNG, ane of his Majesteis Ischeris, Thomas French and James Dot, his feruandis.

Dilatit of airt and pairt of the slauchter of vmq^{le} George Mylne in Pittinweme, committit in Apryle lastbypast.

Mr Thomas Hammiltoun, aduocat, produceit his Maiesteis Warrant; quhair-of the tennour followis.

REX,

JUSTICE, Justice Clerk and 3our Deputis; We greit 3ow wele. Forfamekill as it is vnderstand to ws, that thare is tua fenerall dyattis appointit to our seruitour Alex^r 3oung, ane of the Ischeris of our chalmer, the ane the xj day of Julij instant, att pe instance of our aduocat; and pe vp^r att pe instance of pe partie, the xxj day of jis instant, ffor calling of pe faid Alex^r to vnderly our lawis before 3ow, for airt and pairt of pe alledgeit slauchter of vmq^{le} . . . Mylne in Pittinweme; as pe Lettres *respective* beris: Nochtwithstanding, being credible informit that the mater is submittit to freindis, to be takin away in amicable maner, and pe paking vp^s pairof liklie to be effectuat, seing our informatioun proceedis of pe freindis of aper⁴ of thay parteis to quhome the famin is submittit: It is thairfore our will, and we command 3ow, that 3e desert bayth the saidis dyattis and Lettres, and ceis from calling or proceedding aganis ap^r of pe saidis parteis or pair cautioneris pairatt, in defalt of pair comperance or vp^r wayes; that the mater may be better handlit and reconcelit be pe freindis: As 3e will anfuere to ws, vpoun 3our offices and obedience; keipand pir presentis for 3our warrant. Subferyuit with our hand, Att Sanct Androus, the day of July 1597.

(Sic subferibitur)

JAMES REX.

Quhilk Warrant being red, the faid Justice depute admittit the famin, and ordenit the lettres rasit to this day, att the instance of the Aduocat, aganis the faid Alex^r Young and his feruand, and the vther Lettres rasit, att the parteis instance, aganis the faid Alex^r and his feruandis, for the slauchter of the faid vmq^{le} George Mylne, to the xxj day of this instant, to be Desert. Quhairvpone, the faid Alex^r Young askit instrumentis.

¹ Let, hinder, control.
compromising.

² To free and relieve each other, &c.

⁴ Each, *either* of these parties.

³ Adjusting, settling,

Slaughter.

Jul. 23.—ANDRO REWLL, Wobster (weaver) in Corstorphin.

Dilatit of airt and pairt of the slauchter of vinq^{le} Johnne Rewll his sone, ane barne of xij 3eir auld; committit the (xxj) of Junij lastbypast.

VERDICT. The Assyis chuse Robert Varnour (of Auchindinny) Chancillar; and in ane voce ffylis Andro Rewll, wobster, of the murthour and slauchter of Johnne Rewle, his sone, committit ane moneth fyne, betuix Corstorphine and Edinburghe, be the straik of the plwmet¹ of his sword vnder the vayne organe.²

SENTENCE. For the quhilk, the Justice, be the mouth of William Gray, dempstar, (ordanis) that the said Andro Rewle salbe tane to the Castel-hill of Edinburghe, and thair his heid strikin fra his body; and all his movabill guidis ordenit to be escheit to our souerane lordis vse.

Slaughter.

Jul. 27.—ROBERT POOK (POLLOCK) in Nethirplace, James Vrie in Paratais, Alexander Wallace in Pooktoun and George Tod thair.

Dilatit of airt and pairt of the Slauchter of vinq^{le} Jonet Biggar, spous to Andro Gilmour in Benwartbank, and ane infant barne in hir wamb; committit the xx day of Maij lastbypast.

PERSEWARIS, Andro Gilmour in Benwartpark, and Robert Gilmour thair.

Continued to the Air of 'Renfrew tertio Itineris, xv dierum. Plagiis, Jacobo Tennent de Lennox (Linhous), Jacobo Vrie et Alex. Wallace, conjunctum et divisum ad relevand.'

Treason—Assisting Bothwell in taking Leith—Raid of Wlowmet or Edmonstone-edge.

Aug. 15.—PATRIK Sleich, sumtyme in Birkinfyde.

Dilatit of breking of waird, he being in Sir George Homes hous in the Cannongait; and for the treffonabill accompaneing of Frances sumtyme Erll Bothwell, James Douglas sumtyme of Spott, quhill thair cuning in to the Abay of Halyrudhous, in the moneth of Julij 1593 3eiris.³—ITEM, for the assisting of the Erll Bothwell and Sir James Dowglas, at Leith and the Raid of Wlowmet; commit in Apryll lxxxxiiij (1594.)

The Advocat producit the Kingis Warrant to put the said Patrik Sleich to ane Assyse.—The advocat protestis for Willfull errorr, in caise thay (the assise) acquit the said Patrik Sleich of the Dittay; in respect of his awin Depositionne

¹ So termed, from lead being usually run into the plummet or *pommel* of a sword, to balance its blade.

² The jugular vein.

³ This appears to be partially deleted, perhaps owing to the Dittay being so fully narrated in the Verdict of the Assise.

produceit, subferyuit be the Justice Clark, the Aduocates felff and the Justice Depute; in the quhilk he confessis the cryme, albeit he deny the famin now. The aduocat (also) defyris the Warrant produceit be him, subferyuit be his Maieftie, to be infert in proces; quhair of the tennour followis.

REX,

ADUOCAT, We greit 3ow weill. Forfamekle as We haue commandit our Justice, Justice clark and thair deputis to put Patrik Sleich, presentlie wairdit within our Tolbuith of Edinburghe, to pe knowledge of ane Affyse with all diligence, for his tressonabill being in cumpany and assisting of Frances sumtyme erll of Bothwell att pe conflict att Edmeftoun-edge. It is pairfore our will, and we command 3ow, that 3e forme ane speciall dittay vpoun pe saidis crymes, and infist in perfuit of him for pe same with all instance: As 3e will anfuer to ws vpoun 3our office; kepand pir presentis for 3our warrant. Subferyuit with our hand, Att Falkland, the fyft of August 1597.

(Sic subfcribitur) JAMES REX.

VERDICT. The Affyse, be the mouth of James Lokert, elder of Ley, Chancillar, Fand, pronounceit and declarit the said Patrik Sleich to be fylit, culpabill and convict: Forfamekill as he, in the moneth of Apryll, J^m V^c lxxxxiiij yeiris, come tressonablie, in cumpany with Frances sumtyme Erll Bothwell and vtheris his cumpanie, to the number of iiij^c personis, vnder Capitan and cornett, bodin in feir of weir, &c., to the toun of Leith, quhair thay tressounablie tuik the said tounne, the Magistrates thair of and Tolbuith of the famin, of purpois to haif forfeit the said toun: And seing his Maieftie come with ane number of his trew subiectis, to besedg thame thairin, thay drew thame felff furth thair of to the landis of Nudrie, quhair his Maieftie, with his cumpany, following, on horse and fut, thay tressonablie sett vpoun thame and chaist thame, tuik ane grit number of his trew liegis, hurt and woundit ane vthir pairt thair of; and fwa, he committit oppin and manifest Tressoune.

SENTENCE. For the quhilk cryme, the Justice depute Ordanit the said Patrik to forfalt his lyffe, landis and guidis, and to be tane to ane gibet att the mercat croce of Edinburghe, and thair hangit quhill he wes deid: Pronounceit be William Gray, dempstar.

Bearing and Wearing of Pistolets.

Oct. 18.—WILLIAM HAMMILTONE, seruitour to David Dundas of Prestinch, and Alexander Mowbray, brother to vinq^{le} Johnne Mowbray of Barnbowgall.

The quhilk day, the personis aboue writtin being enterit on pannell, dilatit of airt and pairt of contravening of the Actis of Parliament, in bering and wering pistolettis vpoun thair personis, within the burcht of Edinburghe, in the moneth of August lastbypast: For the quhilk thay wer tane and apprehendit be Henry Nisbet, provest of Edinburghe: And being demandit of the Justice quhidder

thay wald cum in his Maieftis will thairfor, or abyde the tryell of ane Affyfe for the famin? Thay declarit, that thay, the tyme of thair challengeing, wer myndit to pafs furth of the bur^t of Edinburghe with thair piftolettis; and nochtwithftanding, thay wald becum in his Maieftis will, for ony offens done be thame to his Maieftie, in bering of the faidis piftolettis, or to the faid Proveft of Edinburghe, or ony vtheris.

NOV. 1.—THE KINGIS WILL *about William Hammiltoun, fervitour to David Dundas of Preistinch.*

The quhilk day Williame Hammiltoun, being enterit ou pannell to heir our fouerane lordis will declarit, for the cryme vnderwritin; compeirit Mr Thomas Hammiltoun of Drumcarne, aduocat to our fouerane Lord, and produceit the Warrant vnderwrittin, and defyrit the famin to be regiftrat, quhairof the tenour followis.

APUD LINLYTHGW, xx^o Octobris, anno lxxxxvij. FORSAMEKILL as Williame Hammiltoun, feruand to David Dundas of Preistinch, being takin, apprehendit and committit in waird, and pairefter presentit to iustice, accusit and perfewit, for bering and wering of piftolettis, and presenteng of pe fame to the Proveft of Edinburghe; the faid Williame become in his Maieftis will, for pe faid cryme, being verry haynous and capitall, mereting feueir punifchment: 3it his Maieftie, of his speciall grace and mercy, forbering that rigour and extremetie, quhilk worthielie may be vfit aganis pe faid Williame, and mitigating iustice with mercy, hes declairit, and be pir presentis declairis, his Maieftis will as followis, to witt: That the faid Williame, within pe space of fourtie dayis eftir pe dait hereof, fall depairt and pas furth of his realme, remane as exylit and baneift furth pairof during his lyftyme; and on na wyis return agane within the famyn, vnder pe pane of deid: And ordanis his Maieftis Justice and aduocat to caus ane Act of Adiornall to be extendit heirvponn; and publicatioun heirof to be maid att all places neldfull, quhairwith nane pretend ignorans of pe famin.

(Sic fubferibitur) JAMES R.

SENTENCE of perpetual Banifhment. According to the quhilk Warrant, the Justice Depute pronouncit his Maieftis Will aboue writtin, and ordaneis the faid Williame to be baneift this realme for the cryme aboue (writtin) during his haill lyftyme; and on nawyes to return agane within the famin, vnder the pane of deid.

Sortery and Witchcraft.

[APUD LINLYTHGW, *Mr Williame Haert of Lewielandis, Justice-Depute.*]

OCT. 19.—CAPITAN PATRIK HERING.

The quhilk day, comperit Sir Williame Menteith eldar of Keufe, kny^t, Williame Menteith, his foun and aperand air, and Mr Thomas Hammiltoun of Drumcarne, aduocat to our fouerane lord, for his hienes interes, as perfewaris, and produceit his Maiefties Lettres, dewlie execute and indorfat, purchest att

thair instans, aganis Capitan Patrik Herring, be vertew of the quhilkis lettres said Capitan Patrik Herring is lauchfullie demuncit his Maiesteis rebell and putt to the horne att the mercatt croce of Striuling, vponne the aughtene day of October instant, for nocht finding of caution, that he sould haif comperit before the Justice or his Deputis this day and place, and vnderlyne the law for certane crymes of Sorcerie and Witchcraft, as att lenth specifeit in the saidis Lettres: And protestit for releif of thair caution, fundin for persuit of the saidis Lettres and forder proces aganis the saidis Capitan Patrik Herring; quhairvpon thay askit instrumentis.

Comperit Williame Ilwid in Stirling, and produceit ane Letter and Precept, directit fra his Maiestie to the Justice, Justice Clark and thair deputis, and deyrit the samin to be obeyit and insert in proces; of the quhilk Precept the tenour followis.

REX.

JUSTICE, Justice clark and your deputis, We greit you weill. Forsamekill as our louit, Capitan Patrik Herring is summond, att the instance of the Lairdis of Kerse, eldar and younger, to vnderly the lawis befor you and your deputis, in the Tolbuith of Lynlythgw, the nyntene day of October instant, for certane crymes of Wichcraft alleget aganis him; We, for findrie reasonable caussis and consideratiounes moving us, willis and commands you and ilkane of you, to continew the said day and all proceeding agenis the said Capitan Patrik Herring in the said cryme, vntill the tent day of December next-cum, to be haldin in the Tolbuith of Striuling; dischargeing you and ilkane of you and your deputis, be this presentis, of ony calling or proceeding in the said mater vntill the foirsaid day and place: The Cautioneris of baith the saidis parteis standand in the same forme and effect as thay ar now, vntill the said day; but preiudice of ap^r of the saidis parteis. Subferyuit with our hand, Att Dunfermling, the xvij day of October instant, 1597.

(Sic subscribitur) JAMES R.

Vpon the production quhair of the said Williame askit Instrumentis.

It is alleget be the persewaris, that nochtwithstanding of the Warrant produceit, that the Justice aucht to proceed and minister justice to the parties, according to the lawis and Actis of Parliament, becaus the Warrant produceit is ane privat Warrant, to the hinderance of justice, quhilk my Lord Justice, be Act of Parliament, is ordenit nocht to respect, but to proceed nochtwithstanding of the samin: As also, the Warrant contenis ane command to continew the dyet, quhilk can nawyis be done, be the ordour and practik obseruit in the countrey; seing in continewatiounis, quhilkis ar actis judiciall, it is necessar that the judgement be establisht be the presens of thre personis, the Judge, the persewar and defender; and the defender being now absent, thair can be no lauchfull continewatioun maid, bot the certificatioun of the Lettres man be grantit aganis him: And gif he be nocht alreddie lauchfullie denunceit, he aucht to be putt to the horne of new; and gif na caution be fund, as thair is nane, his cautioner sould be vnlawit.

The Justice, in respect of my Lord Aduocatis answer, and be reason of absens of partie defender, without quhais personal comperance thair can be na certane comperance to ony certane day, and in respect also of his Maiesteis Letter, discharging all proceeding this day, Defertis the dyet, to new wairning to the thryd day of the nixt Justice Air of the Sherefdom quhair the said Capitan Patrik Herring duellis, or soner, vpoun xv dayes wairning. Quhairvpoun the saidis perfewaris askit instrumentis,

Witchcraft—Sorcery—Incantation, &c.

Nov. 12.—JONET STEWART, in the Cannogait; CHRISTIAN LEWINGSTOUN, in Leyth; BESSIE AIKEN, thair; and CHRISTIAN SAIDLER, in Blakhous.

Dilatit of the crymes of Wichcraft vnderwrittin.

VERDICT. The quhilk day, the personis of Assyse being chosin, sworne and admittit; and the personis on pannell being accusit, be Dittay, in thair presens, of the crymes vnderwrittin, removit furth of court; quhair, eftir chusing of Henry Lummisldane (in Edinburghe) Chancellor of the said Assyise, thay reasonit and votit vpoun the poyntis of the said Dittay; and being throughlie anysit thairwith, reenterit agane in Court, quhair thay, be the mouth of the said Chancellor, ffand, pronunceit and declarit the said CRISTIANE LEWINGSTOUN to be fylit and convict of the abusing of Thomas Gothray, baxter in Hadingtoun, vnder pretext of Witchcraft, quha addressit him self to the said Cristian as ane wyfe woman, haifing knaulege in the foirsaid airt, and sayd to hir that he was witchit, and that his geir went fra him; quhilk scho affirmit to be trew, and promesit to help him, and suld lat him sie quhair the Witchcraft was laid: Lyke as, the morne thaireftir, scho tuke him doune his awin stair and hakkit¹ a hoill with ane knyffe, and tuke out a lytill polk of blak plading, quhairin was sum pickellis of quheit, sum threidis of wirset of diuerse cullouris, hairis and naillis of mennis fingeris, and affermit that he was witchit be that meanis; and baid his wyffe keip² thame in hir aprone, and cast thame in the fyre; quhilk was done immediatlie thairefter: And than scho sayd, gif scho had nocht fund out this geir, thay wald haif bene wrakkit bayth in body and geir: Quhilk scho deponit in presens of my Lord Justice, vpoun the tent day of Julij lastbypast, to be of veritie: And forder sayd, that scho laid in this graith her self, in the nycht, in a hoill vnder the stair; and nochtheless maid Gothray and his wyffe to beleif it was Witchcraft layd in be ane vther: Lykewyis, at the samyn tyme scho affermit that hir dochter was tane away with the Farie-folk, and declarit to Goth-

¹ *Howkit*, dug.

² *Keep*, is perhaps used for *kep*, catch, indicating that the witch directed Thomas to toss them towards his wife, who would receive them in her apron, &c.

rayis wyff, than being with barne, that it was a man chyld fcho was with ; as it provit in deid : And that all the knowlege fcho had was be hir dochter, wha met with the Fairie.—ITEM, indytit and accusit, that fcho and CRISTIAN SAIDLER, being consultit be Robert Baillie, mafoune in Hadingtoun, to cure his wyffe, quha allegeit hirselff to be bewitcheit, fcho, at the said Cristian Saidleris desire to gang and cure hir (went;) and than the said Cristian Saidler bad hir tak thre pyntis of sweit wirt,¹ and seith it with a quantitie of fresche butter, to a pynt ; quhilk fcho gaif hir to drynk : And siclyke, to gif hir a bath in a pot of wodbind and roset hett togidder ; quhilk fcho did, bot avallit not ; doing thairbye, baith fcho and the said Cristian Saidler, that in thame lay to abuse the said Robertis wyffe, promessing to cure hir be hir craft, quhilk fcho was nocht able to do : And this was done vnder cullour of Withecraft.—ITEM, indytit and accusit lykewyis, that schortlie befor fcho was apprehendit, fcho was send for be the said Cristian Saidler to hir hous, and at hir cuming the said Cristian desyrit hir to gif her selff furth for a wyife wyffe and a woman of skill ; and said to Andro Pennycuke of that Ilk, being than seik in her hous, that fcho send for hir as being a wyife-woman to help him ; and than the said Cristian Saidler bad hir tak weill in hand to haill him, and put him in gude hope : And the said Andro than sayd, that he had bene in the Cannogait with JONET STEWART, and that fcho had done him na gude, and beleiffit that fcho had witchit him ; and that the sayd Jonet sayd ‘ he suld never haif a day to do weill.’ And than fcho, be the said Cristian Saidleris counsale, bad get a reid cok ; quhilk wes done : quhilk fcho flew and tuke the blude of it, and fcho buke² a bannok thairof with floure, and gaif the said Andro to eit of it ; quhilk he could not preif.³ And thaireftir, fcho, at the said Cristian Saidleris desyre, tuke anc of the said Androis farkis, quhilk fcho gaif to her, and bad her dip it in the wall⁴ at the bak of the hous ; quhilk fcho did, and brocht it in agane ; quhilk Cristian Saidler put vpoun him, wat as it was, being verie evill at eise, and gaif him to vnderstand that he wold get his health be this meanis ; albeit that it wes onlie plane abusione, as the event declarit : And than the said Andro desyrit hir to gang to Jonet Stewart, and craif his health at hir hand for Godis sake.—AND siclyke, fund, pronunceit and declarit the said JONET STEWART to be fylit, culpabill and convict, for cuning to Bessie Inglis in the Kowgait, being deidlie seik, and lycht and tuke aff hir fark that was than vpoun hir and her mutche, and waifschit thame in a South-rynnand water ; quhilk fcho did, as fcho sayd, at command of vmq^{le} Michael Clark, snyth in Lafwaid ; and put the fark wat vpoune hir at midnycht, and said thryis over, ‘ In þe name of þe ffader, þe Sone and þe Haly Ghaist ;’ and fyrit the water,⁵ and brunt stray at

¹ Worts, the fermented stuff from which ale is brewed.

² Baked.

³ *Prece*, taste.

⁴ Draw-wall.

⁵ Put red hot iron into it.

ilk newke of the bed, as the said Michael had leirnit hir ; quhilk was done, vnder pretext and cullour of Witchecraft.—ITEM, for hailling of women of the wedonynpha,¹ and specialle of Bessie Aitkyn and syndrie vthiris, be taking of ane garland of grene-wodbynd, and causing of the patient to pass thryife throw it ; quhilk thairafter scho cuttit in nyne peices and cast in the fyre ; quhilk scho affermit scho leirnit, with the rest of hir cures, fra ane Italean strangear callit *Mr Johne Damiet*, ane notorious knawin Enchanter and Sorcerer ; quhilk was lykewyis done vnder the pretext of Witchecraft.—ITEM, fylit for hailling of syndrie persones diseasit of the falling evill, be hingand of ane stane about thair nek fyve nychtis ; quhilk stane scho affermit scho gat fra the Lady Crawford ; and swa for abusing of the peple vnder pretext of Witchecraft.—AND siclyke, ffand, prounceit and declarit the said CRISTIAN SAIDLER to be fylit and convict for abusing of the peple vnder pretext and cullour of Witchecraft ; and specialle, that scho and the said *Cristian Levingstounne*, refoirting oft in hir hous, and consultit and devyfit in sik thingis, and nemelie defyrit the said Cristian to tak weill vpoun hand to cure ane Gray in Hadingtounne, quha was alledgeit to be witchit, and come to the said Cristian house to seik remeid thairfoir : Lyke as also, Robert Bailzie come to hir house, craving of her remeid for his wyffe, quha was bewitchit, and scho fend the said Cristian Levingstounne to Hadingtoun to her, and bad her tak brwne and cammanye and seith in quhyte vyne, and gif it to the seik woman to drynk, for the seiknes of her hairt.—ITEM, fforfamekill as Andro Pennyeuke being diseasit, be the space of xx oulkis, in hir hous, of the vnderfute,² as scho affermit, and culd nocht haill hir (him), scho fend for the said *Cristian Levingstounne*, and baid her tuik weill in hand ; and scho said to the said Andro, that scho fend for ane wyife-woman, quhilk was the said *Cristian Levingstoun*, quha had skill and wald haill hir (him) : And eftir hir cuming, thay take a reid cok, flew it, buke a bannok with the blude of it, and gaif the samyn to the said Andro to eit : And thairefter, scho gaif the said Cristian ane of the said Androis farkis, and baid hir dip it in the well behind hir hous, and scho did it, at hir command ; and scho put the samyn vpoun him wat ; quhairthrow he maist haif sownit³ amang thair handis ; thairby abusing the pure gentleman, under cullour of Sorcerie and Witchecraft.—ITEM, that vnder cullour of hir craft and hailling of diseasit persones, scho affermit that scho culd haill Leprosie ; lyke as, scho tuk in hand to haill the Young Laird of Bargany,

¹ A *wed*, a disease peculiar to women in childbed and to nurses. It occurs among the singular enumeration of diseases in Sir John Roull's Cursing, one of the Poems in the Bannatyne M.S.—'The cruke, the cramp, the colica,—The worm, the wareit wedonynpha,—Rimbursin, ripplis and belly-thra.' It is also known by the name of *wyten-on-fa*.
² In Sibbald's Glossary, the word '*undergore*' occurs, as expressive of a 'state of Leprous eruption.'
³ He had almost swooned or fainted away.

quhilk ſcho affermit ſcho did, with cure of ſaw,¹ maid of quick-ſiluer, and rubbit it on the patient, quhilk ſcho allegeit ſcho leirnit at hir fader; albeit ſcho did the ſamin be vnleſſum meanis, ſcho haifing na ſik knowlege as to cure Leproſie, quhilk the maiſt expert men in medecine are not abill to do.—ITEM, that vinq^{le} Robert Hunter, being diſeaſit with a ſlaw in his face, quhilk ſcho affermit to be Leproſie, ſcho vſit a cure vpoune him mixt w^t quick-ſiluer and gaif him in drynk: God knowis how it wes compoſit, bot the gentillman deit within xij houris thair-
eſtir, as wes notourlie confeſt be hir ſelf, and can nocht be denyit; quhairby ſcho was giltie of his death, be hir craft, miniſtring to him vnleſſum thingis, quhairof he deit ſuddenlie; and ſwa ſcho abuſit the ſaid Robert Hunter.—ITEM, ſtand, pronunceit and declarit the ſaid BESSIE AITKYN to be fylit, culpabill and convict for abuſing of the peple, in geving her furth to haille ſeik perſones, be putting of thame throw ane girth² of wodbind, thryis thre tymes, and vſit thir wordis, ‘ This in þe name of þe Father, þe Sone and þe Halie Ghaift: ’ Quhilk cure ſcho practizit vpoun Marioune Wallace in Marlingis-wynde and diuerſe vtheris, for a dolour in thair lunze;³ quhilk quhen ſcho declarit to Jonet Stewart, ſcho affermit that the ſaid Jonet bad hir tak reid nettellis and Alex^r,⁴ and bath hir with, and ſeith Alex^r with freſche butter and rub vpoun hir; and to put the ſaid Marioune Wallace ix times throw the girth of wodbind, at thre ſeueral-tymes, and xxiiij houris to be betuix ilk tyme; quhilk ſcho did.—ITEM, for vſing of the lyke to, a wyſſe of Cramond, for curing of hir diſeiſe, quhome ſcho paſt throw the girth of wodbind nyne times; and forder, ſcho tuke Beſſie Henderſoune doune the bak-ſyde of Nethir Crammond, and tuke vp nyne ſopis⁵ of ſalt watter and put in a ſtolp;⁶ and being all in bed or ſche come agane, ſcho waifche⁷ the ſeik woman, callit Vchiltrie, frome the croune of hir heid to the foill of hir fute, being haldin vp betuix twa ſiſteris; and ſyne ſcho did that in Geillis⁸ name: This was done to Williame Kellis wyſſe, and ſaid that his wyſſe had twa meidwyſſes, and the laſt had done his wyſſe evill; and coun-ſaillat him to ſend for hir, and aſk his wyſſes health thryis at hir for Godis ſaik; and baid him, at hir away-ganging, caſt a fyrie coill, and twitche⁹ hir thairwith; and ſayd forder, gif the ſaid Beſſie had not cum, the ſaid Williamis wyſſe had deit: Lyke as alſo, ſcho maid a ſaw¹⁰ of reid nettellis and butter and wodbind, and laid it to the patientis lunzie, as Jonet Stewart had done to hir of before; and pat hir throw the girth: Lyke as, ſcho cauſit to bath hir lunzie with ſcheippis

¹ Salve or ointment.² Hoop or circlet.³ Loins; it ought to have been written ‘ lunzeis.’⁴ An herb, vulgarly called ‘ Aleſſander,’ *ſpinkin’ Alſchinder*, or ‘ loveage,’ with black leaves. *Lactuca atrum, ligusticum, levisticum.*⁵ Soups, sops, or small quantities; probably as much as could be taken up in the palms of the hands joined, at nine times. *Literally*, as much liquid as can conveniently be contained in the mouth.⁶ Stoup, a wooden vessel for holding water.⁷ Washed.⁸ St Giles, the tutelar Saint of Edinburgh.⁹ Touch.¹⁰ Salve.

doung.—ITEM, scho confest that scho leirnit of Janet Stewart to tak rawff¹ Spainzie seid, and steip it amang quyte wyne, and gif it to drink, for the fawing-evill.²—ITEM, scho confest alswa, that James Johnstoune, cuning to craif hir counsaile anent his diseis of, scho baid him get a grene gwise,³ with four or fyve kitlingis,⁴ and put the kitlingis in the guise wambe, and roist the samyn; and with the juse and drippingis to rub him; bot put the samyn never in practize vpoun him.—ITEM, forder stand, pronunceit and declarit the saidis *Cristian Lewingstoune, Jonet Stewart, Cristian Saidler and Bessie Aitken* to be fylit, culpable and convict of commoun abusaris of the peple, be geving thame selffis out for Witcheis, and to vnderstand that thai had craft of Sorcerie, abill to haif curit diuerse grit diseissis and seiknesses; quhill be na naturall meanis of phisik, or vther lawfull and Godlie wayes, thay war abill to performe.

SENTENCE. For the quhilkis crymes, the said Justice Depute Ordaint the saidis persones.⁵ and ilk ane of thame, to be tane to the Castell-hill of Edinburghe, and thair to be wirreit⁶ at ane staik, quhill thay war deid; and thair bodeis to be brunt in assès, and all thair movable guidis to be escheit: Quhill was pronunceit be the mouth of [William] Liddell, Dempstar of the said Court.

Sedition — Treason — Besieging the King, &c. in Tolbooth of Edinburgh.

Jan. 20, 1597-8.—EDWARD JOHNNESTOUN, merchand burges of Edinburgh.

Dilatit, accusit and persewit be Mr Thomas Hammiltoune of Drumcairne, aduocat to our souerane lord, of the Dittay vnderwrittin: That is to say,

DITTAY against the Pannell.

EDWARD JOHNNESTOUNE, merchand burges of Edinburgh, ge ar indytit, fforamekill as, diuers wickit and malicious personis, invying the quyet estait of the Kirk and commoun wealth of this countrey, haifing preissit be leis, calmneis, fals clamouris and misreportis of his Maiesteis vertewous proceedingis, to rais dissentioun betuix his hienes and the ministeris, and diuers vther his subiectis; persewerit swa maliciousslie in thair godles practeis, in the monethis of Septem-

¹ Probably the same as *raff*, denoting plenty or abundance of Spanish seed. ² Epilepsy, falling sickness. ³ A green goose. ⁴ Kittens. ⁵ Bessie Aiken, one of the pannells, pleaded her *venter* (pregnancy); which, as had formerly been decided in the case of Barbara Naipar, was sustained. After childbirth, and sustaining 'lang punelchment, be famine and imprisonment,' in the Tolbooth of Edinburgh, she was at length banished for life, in compliance with a Warrant from the King. See Aug. 15, 1598: But by what process of reasoning his Majesty came to so enlightened a conclusion, it is difficult to conjecture! Bessie's extreme poverty puts bribery out of the question. ⁶ Strangled, *worried*.

ber, October, Nouember and in the beginning of December, in the yeir of God I^m.V^c.lxxxxvj, to dispose the haertis of the nauchtieft and warft inclynit peopill to miscontentment and rebelloun, till at last, vpoun the xvij day of the said moneth of December, takand thair avantage, be occasioun of his Maiesteis chargeing of sum inhabitantis of Edinburgh aff the toune, with quhais extraordinar and suspect behaviour his Maiestie wes than offendit, to abuse the Ministrie, nocht oulie with ane vehement fray¹ of thair awin priuatt perrell, bot also of the extreme danger of the Kirk and Religioune, incussit thairby sic terrour to thame, that thay defyrit the Nobillmen, barrounis, gentilmen and burgesfis, being att the preiching the said day, to repair to the New Kirk; quhair, eftir conference and deliberatioun vpoun the remeidis of the consauit danger, haifing concludit to promeis ayfald² concurrence to vtheris, in the defence of Religioune, and renewing of the Covenant maid to that effect, be thair solemp aithis, and extensioun of thair rycht handis: Ane number of the saidis seditious leyaris, authouris of the reportis and dissentioun foirsaid, being present, and persaving that to be ane verrie convenient tyme, and sic occasioun, to performe thair preceding proiectis; incontinent, of thair vphaulding of thair handis at the New Kirk, began, in maist confusit and tumultuous maner, to cry, ‘To armes!’ and to exhort thair associattis to stik³ certane of his Maiesteis nobilitie, counsalouris and domestik seruandis: Quhair ye being present, and airt and pairt of the said tressonabill and rebellious tumult, ischeit⁴ with thame, furth of the said New Kirk to the callay,⁵ in ane grit number; and disperfing your selffis in diuerse quarteris of the callay, cryit, ‘To armes!’ to ‘Stryke þe swasch!’⁶ and ‘Ryng

¹ Fear. O. Fr. *Effroy, effray, frayeur*. ² q. d. One-fold, single, unfeigned, hearty concurrence with each other. ³ Stab, assassinate. ⁴ Issued, rushed forth. ⁵ Causeway, street. ⁶ The alarm-drum. Dr Jamieson, in his valuable Dictionary and Supplement, defines this instrument (but apparently with some hesitation) to be a trumpet. In all the instances the Editor can recollect of having met with the ‘*swasche*’ or ‘*swesche*,’ in the ancient Records and in other MSS., reference is uniformly made to its being *struck*, not sounded or blown. As the instrument is one now entirely forgotten or unknown, some enquiry has been made by the Editor into the subject; and, without offering any farther remarks, the following curious notices are given, being the result of considerable researches. In the Lord Treasurer of Scotland’s accounts, anno 1542, the following entries occur.

‘In the first, deliverit to be x coittis and x pair of hois to the four playeris on the veolis, four trumpetis of ware, and twa *taburnerris*’ (drummers), ... lxij li. xvj s.
(1544.) ‘Item, to tua men that playit vpoun the *swesche*, *quhilkis had thair tabrounis brokin thair*,
[at the ‘Assège of Glasgw’] be the *Irifche* men,’ xliij s.
(1548.) ‘Item, vij Aprilis, ane to play throw the town with the *swesche*, to raise certane men of
weir, to pas to Yaister,’ iij s.

FROM the Treasurer’s Accounts, as recorded in the Burgh Court Book of Canongate;

(Nov. 15, 1576.) ‘Item, gevin to Carfane the *Swascheur*, that day we monfterit, ... xxx s.
‘Item, the samin day, gevin to the Pyper, at the Baillies command, ... viij s.
‘Item, the samin day, gevin to ane Bonet-maker fallow, to play on my Lordis *swasche*, vj s. viij d.
‘Item, upoun the tent of October, gevin for ane *swasche* to our monfteris, ... iij li.
‘Item, for TWA STICKIS to the SWASCHE,’ vj d.

Besides these, numerous other entries occur in the Lord Treasurer’s Books, at different dates, of

pe commoun bell' affirming the Religioune to be in danger, and his Maiestie to be accompaneit with ane number of nobilitie and counsalouris, Papistis, and ini-meis to the Kirk: And be that policie, haifing convocatt and steirit vp your associattis, to the number of ffour or ffyve hundreth men, with jakis, knapfkais, corflattis, hagbuttis, pistolettis, pikis, halbertis, fwerdis, gantillettis and vtlieris wappinnis invasine, ye and your saidis associattis, tressonable and feditiouslie inclofit his Maiestie within the Tolbuith of the said burcht, quhair his hienes wes for the tyme with his Counfall, in his gown,¹ in maist peceabill maner, for administration of justice, and discharge of that poynt of his princelie dewtie to his peopill: And the saidis feditious raskallis and ye inclofit the Kirk-style, and hailt passageis of the said Tolbuith, and acces to the samin, gairdit thame with forceis of armit men, debarrit be force and violence sic of his Maiesteis faithfull subiectis and familiar seruitoris, as preissit to haif enterit within the said Tolbuith, to haif bene ather releifaris of his perrell, or pairt-takaris thair of; boistit and dang² gentilmen, and vthiris his Maiesteis seruandis, aff the callay; slayit sic as wes with his Maiestie to isch furth of the Tolbuith, except sic particuleris as focht and obtenit your licence; minassit sic as wes within the Tolbuith for his Maiesteis defens, bidding cast furth certane of his counsalouris and seruandes att the windois, and boistit that ye sould sist thame; and vterit infineit sic tressonabill and feditious speichis, and continewing thairin be the space of twa houris; treasonable befegeit his Maistie, in swa barbarous, contemptuous and rebellious maner, as wes newir vfit of before, ather³ sene in this countrey, or hard of in ony vther; till att last, the weill affectit magistratis, and certane dewtiefull inhabitantis of the said burcht, with diueris gentilmen, being thairin for the tyme, haifing assemblit thame selffis in sic number and preparatioun, as ye could nocht gudlie haif resistit persewering in your will; bot, laiking power to performe your maist tressonabill interpryis foirsaid, wer forceit to reter⁴ your selffis, and suffer his Maiestie to be relewit, in dispyte of your malice and treasonabill rebelliousne. Quhilkis crymes, particulerlie aboue specifeit, wer committit att the tyme, and in maner foirsaid, of your counsaling, dewyfyng, interpryfyng, causyng, fleirring vp, command, assistance and ratihabitoun; and ye wer airt and pairt thair of. Quhilk ye can nocht deny.

payments to *swefschcouris* and *tabrounaris*. The present quotations shall be closed by another singular extract.

(Oct. 14, 1596.) 'Johne Sandis becom actit to *styrk the fuyse* throw this burgh, at four houris in the mornynge, and at aucht houris at evin; and for his diligence thairintill, Robert Bennat is becom actit cautioner to the Beilleis and Counfall of this burgh, under the penaltie of ten pundis.

(*Eodem die*.) 'Andro Angle becom actit to ring the bell daylie, at four houris in the mornynge, and at aucht houris at evin, &c—*Actis, Ordinancis and Statutis of the Burgh of Culros*.'

¹ Sitting in council in his robes of state, and therefore unarmed.

² Threatened, brow-beat,

and drove.

³ Either, or.

⁴ Retire, withdraw. Fr. *retirer*.

Quhilk Dittay, being red in the said Edwardis prefens; and being inquiryt, gif he wald abyde ane Affyis thairfore, or cum in his Maiesteis will for the famin? Anfuert, that he wald nocht cum in will of the Dittay, as it is confaut; and he produceit ane Supplicatioun efter specificit.

EDWARD JOHNNESTOUNIS SUPPLICATION to the Lords of Secreit Counfall, and thair Deliuerance.

SOVERANE lord, vnto your Maiestie and Lordis of your lienes Secreit Counfall, huimlie meinis and schawis your graceis seruitour, Edward Johnnestoun: That quhair, vpoun occasioun of sum speichis vnhappellie vterit be me in your Maiesteis prefens, vpoun the xij day of this instant, tending to my purgation of the tumult and vproir, quhilk fell furth in the town of Edinburgh, vpoun the xvij day of December, 1596 zeiris, it pleasit your lienes to committ me to waird within the Tolbuth of Edinburgh, thair to remane quhill I wes tryit be ane Affyis of the famin. Quhilkis speichis wer maist vnaufittlie spokin, and with my haert I repent the vtering pair of; maist huimblie craving your Maiesteis pardoun pairfore, and for that suddane and vnhappie commotioun, quhilk fell furth the said xvij day of December 1596, quhairatt I wes present, althocht vpoun na ewill intentione nor purpois aganis your Maiestie, or ony of your counfall: Git, feing your lienes wes sa heichlie offendit pairat, nocht only condemn I the famin as rash and vnaduisittlie done, bot also fra my haert I repent I wes present that day. Maist huimblie beseking your Maiestie, according to your wountit grit (mercy) and clemencie, to pardoun me for the famin, protesting solempnelie, be Godis grace, I salbe mair war¹ and circumspect in all tyme cuming, in the faythfull and loyall discharge of my dewtie to your Maiestie; for quhais lang leif and prosperous estait I fall continewallie pray: And for my escheit, quhilk your Maiestie disposit, I am content to, being relewit out of waird, quhilk I huimblie craif, to satisfie the donatours pair of att your Maiesteis fycht, according as vthiris neychbouris² hes done: And swa, your Maiesteis gracious anfuert maist huimblie I besek,

(Sic deliberatur)

APUD EDINBURGH, xix Januarij 1597. -

The Lords of Secreit Counfall Remittis the anfuert of the complement within writtin to the Kingis Maiestie.

(Sic subscribitur)

FVVE.

According to the quhilkis, he becommis in his Maiesteis will: And as to the Dittay produceit, denyis the haill pointis thair of, except sa far as is contenit in the Supplicatioun aboue writtin.

And thaireftir, the said Edward Johnnestoun, eftir the reding of the Dittay aboue writtin, produceit be the said Aduocat, declarit, that safar as his Maiestie thinkis of his honour and conscience that he is gilty of ony poynt of the said Dittay, he beand in his Maiesteis will thairfore; for satisfacioun of the quhilk will, Archibald Johnnestoun merchand burges of Edinburgh, become pledge and fourtie; and the said Edward Johnnestoun obleist him to releif the said Archibald of the caution aboue writtin, and of all danger that may follow thair, vpoun.

¹ Wary, cautious.

² Fellow-citizens, townsmen.

(Jan. 21.)—THE quhilk day Eduarde Johnneftoun burges of Edinburgh, being enterit on pannell, to heir and fie our fouerane lordis Will declarit, anent the crymes quhairfor he become in his hienes will, in ane Court of Justiciarie haldin be the said Justice-depute, in the Tolbuith of Edinburgh, the twenty day of Januarie instant: For satisfioun of the quhilk will, Archibald Johnneftoun merchand burges of Edinburgh become actit and oblist cautioner and fourtie in the buikis of Adiornale; as ane act maid in the said Court, the said twenty day of Januare, at mair lenth proportis.

Comperit Mr Thomas Hammiltoun of Druncairne aduocat to our fouerane Lord, and producet in judgement to the said Justice-Depute, twa Warrantis subferyit be his Maieftis hand: Of the quhilk tua warraundis the tennour followis.

The tennour of the first Warrant.

FORSAMEKLE as Eduarde Johnneftoun, merchand burges of Edinburgh, being pannellit and accusit for airt and pairt of the treaffonnabill cryme of Treaffoun and Liefmaiestie, committed be him and his complices vpoun the sevintie day of December lxxx sextein (1596) yeiris, aganis our royale person, and certane of our nobilitie and counsalouris, being within our Tolbuith of Edinburgh for administration of Justice to our liegis, in quiet and peciabill maner; is cum in our will for the said cryme: Thairfor We, for declaration of ane parte of our will anent the said Eduarde, nochtwithstanding of his merite of death and confiscation of all his movabill guidis and geir and fforfaltour of his landis for the said cryme, haue neurtheles, of our grace, clemency and mercy, pardonit and remittit to him his lyif, We decerne and ordaine þe said Eduarde, for him self and takand the burding on him for his wyif and bairnis, and all vtheris having rycht of thame to the obligation vnder writtin, to superceid all execution compitent to him and his bairnis or ony of þaim vpoun ane Obligation maid and subferyit be Thomas Fonlis goldsmyth, burges of Edinburgh, and his cautioneris, to the said Eduarde and his foirfaidis, quhairby the said Thomas and his faidis cautioneris, for þe soume of Aucht thousand markis ressaueit be þe said Thomas fra þe said Eduarde at þe making þair of, become bund and oblist to pay the said soume to þe said Eduarde or his foirfaidis, or vþirwyis to content and pay to thame ane grite quantatie of victuell theirfor, or to grant quhatfumeir securitie of infestment of landis for þe samin, in maner specifeit in þe said Obligation, of quhatfumeir dait or daitis þe samin be of; and that ay and quhill the said Thomas and his foirfaidis ressaue payment of the said soum fra ws and our Comptroller, according to ane Act and ordinance maid anent the satisfioun and pament of þe faidis Thomas debtis restand be ws to him; sua that the said Eduarde or his foirfaidis sal haue na action, nor execution vpoun the said Obligation, ather principall soume, proffreit þair of, or victuell þairin contenit aganis the said Thomas and his cautioneris, quhill thay ressaue pament and satisfioun of þe said soum of Aucht thousand markis fra our said comptroller; and ordanis the said Obligation, baill strenth, force and effect þair of to ceis and be suspendit in the mentyme, quhill the tyme aboue specifeit; at the quhilk tyme, þe said Thomas and his cautioneris salbe onlie oblist to pay the said principall soume of Aucht thousand markis, togidder with the annuelrent of ten markis for ilk hundreth¹ þair of, for all 3eiris and termes that the said Eduarde fall happin to want the said principall soume, and fall nocht be aftrietit to pament of ony griter proffreit for the said soume, nochtwithstanding of quhatfumeir claus or condition in þe said Obligation: And for the mair securitie, we ordane þis our

¹ Interest at the rate of 10 per cent.

declarioun of ane parte of oure will to be infert and registrat in þe buikis of Adiornall, with lettres to pas þairupoun, in form as effeiris. Subfcriuit with oure hand, At Haliruidhous, the xxi day of Januare, 1597.

(Sic subfcribitur)

JAMES REX.

Followis the tennour of the urther Warrant.

REX,

JUSTICE, Justice Clerk and 5our deputtis, We greit 5ow weill: Forfamekill as in ane Court of Justiciarie baldin be 5ow in our Tolbuith of Edinburghe, the twenty day of Januar instant, Eduarde Johnneftoun, merchand burges of Edinburghe, is becum in our will, for his airt and pairte of the Infurrectionn movit aganis ws and oure counfalouris within oure burghe of Edinburghe, vpoun the xvij day of December, 1596 5eiris; and that Archibald Johnneftoun, merchand burges of Edinburghe, is become oblist and actit in 5our buikis, for fulfilling our will to be pronuncit pairament: Quhairfoir, We movit with clemencie, mixing mercy with iustice, albeit the said Eduarde meritit rigorous pvnishment, be thir presentis declairis our Will in þat behalf, as followis, to wit: We Decerne and ordane the said Eduarde Johnneftoun and his cautioner to content and pay to our familier feruitour, Sir George Home of Spott, donatour to þe said Eduarde his escheit, the soun of Thrie thousand and fyve hundreth markis, betuix and the tent day of Februaire next; and als, to gif ane sufficient discharge to our said donatour for his intromission with quhatfumenir sounes of money pertaining to þe said Eduarde, vpliftit be þe said Sir George and vpris in his name in ony tyme bygane: Qubilk We declair falbe in full contentatioun for þe said Eduard his escheit, and of all farder pane and cryme we may lay aganis the said Eduarde, for þe caus soirfaid: Ordaining alsua lettres of Poinding and Horning vpoun ane simpill charge of sex dayes to pas and be direct at the said Sir Georgis instance aganis þe said Eduard and his cautioner, for fulfilling heirof and pament to him of þe said sounne; for sua is oure will be þir presentis. Subfcriuit with oure hand, At Edinburghe, the twenty ane day of Januare, 1597.

(Sic subfcribitur)

JAMES REX.

According to the quhilkis Warrantis, the saidis Justice-Depute pronuncit and declairit our souerane lordis Will aganis the said Eduard Johnneftoun; and decernit and ordanit him to fulfill the haill pointis, articles, and clauissis contenit thairin; and that lettres be direct heirvpoun aganis the said Eduard and his cautioner for fulfilling of the premissis, conforme to the tennour of the saidis Warrantis.

Forgery — Counterfeiting a Discharge.

Feb. 8.—JOHN HALYDAY, burges of Edinburghe, Thomas Marioribankis, notar thair, James Lowrie, sone to vni^q^{le} James Lowrie burges of Edinburghe, Johnne Wynzettis, sumtyme kater to his Maiestie, Alexander Lowrie, baxter in Edinburghe.

Dilatit of the counterfiting, falcifeing and dewyfyng of ane fals and counterfit Discharg, alledgeit maid be Capitan Williame Nisbet to James Lowrie, of the sounne of thre hundreth markis, contenit in ane Obligatioun maid be the said James to the said Capitan Williame; and of ane Inhibitioun following thairvpoun.

VERDICT and execution of SENTENCE. ‘Fylit and hangit.’

Falsely acting as a Notary.

Feb. 8.—JOHNNE MOSCROP, wryter in Edinburghe.

Dilatit of gewing of him selff for ane notar, he nocht being (ane); and subferyuing as notar diners obligatiounis.¹

The Dittays in this and the preceding case are recorded, and contain the particulars of the forgeries; but they are not worthy of being inserted.

VERDICT. The Affyis, ‘be the mouth of Johnne Stoddart of Sheilgrene chancellor, fand, pronunceit and declarit the said perfounes vpoun pannell to be fylit, culpable and convict of the particuler crymes aboue writtin, quhairof everie ane of thame was accusit.

SENTENCE. The said Justice-depute ordanit thame, be the mouth of Williame Liddell dempstar of the said Court, to be tane to ane gibbet besyde the mercat croce of Edinburgh, and thairon to be hangit quhill thai be deid; and all thair movable guidis to be escheit and inbrocht to our souerane lordis vfe, as convict of the saidis crymes.

Unbesetting the Highway—Wamesucken—Shooting of Hagbuts and Pistolets, &c.—Murder.

Feb. 15.—JOHNE MURE of Auchindrane and others.

The samin day Matthow Dunduff of that Ilk alias Stewart, oft tymes callit as cautioner and fouirtie for Johnne Mure of Auchindrane, John Mure sone to Quintene Mure in Carcloy, David Sinclar and Johnne Schaw, feruitour to the said Johnne Mure, and Patrik Davidfome, feruitour to the said Mathow Dunduff alias Stewart. AND siclyke, the said Johnne Mure of Auchindrane, oft tymes callit as cautionir and fouirtie for ALEXANDER KENNEDIE, sone to Hew Kennedie of Craigneill, David Mure feruitour to the Laird of Bargany, Johnne Dunduff alias Stewart, sone naturall to the said Matthow, to haif enterit and presentit thame before our souerane lordis Justice or his deputis this day and place; ffor cuning vpoun the thryd day of Januar lastbypast, vnder sylence and cloud of nycht, with convocatioun of our souerane lordis lieges, bodin with hagbutis and pistolettis to the toun of Mayboll; and eftir thay had stellit² thair horffis att the Guid-wyffe of Knokdais zettis in Mayboll, thay convoyit thame felffis secreteilie to Thomas Nasmythis zaird in Mayboll, nixt adiacent to Sir Thomas Kennedeis duelling hous in Mayboll, as place meitest for accomplisshing of thair crewall, vngodlie and barbarous murthour and slauchter of the said Sir Thomas Kennedie; quhair thay stuid, darnit betuix tua edzis,³ awaiting for

¹ On the margin, ‘Convict and hangit.’
or hidden between two hedges.

² Put up, placed or stabled, *stalled*.

³ Concealed

his slauchter, and to haif mureidreift him be way of Brigancie, Hamefuekin and Vmbefetting of his hie gait, and way of foirthocht felony, precogitat malice, confpyrit and dewyfit murthour : And thay, perfaving the faid Sir Thomas Kennedie, with Dame Elizabeth M^cGill his fpous, Thomas Kennedie thair eldeft fone, Margaret and Helene Kennedeis thair dochteris, cuming furth of the faid Thomas Nafmythis duelling hous, and cumand throw his yaird betuix the twa edgis, kepit thame felffis darnit,¹ quhill the faid Sir Thomas wes within fax ellis to thame quhair thay lay ; quha fuddanelie vmbefet the faid Sir Thomas, his fpous and bairnis, or² he could be war³ of thame, he dredand na harme nor inurie of ony perfoune, and fpeciallie of the perfonis aboue writtin, thay ftandand with him in apperand favour and freindfhip, att the leift but⁴ ony profeffioune of feid or vpgewing of kyndnes ; and thane fehott and delafcht⁵ aucht fehott of hagbuttis⁶ and piftolettis att the faid Sir Thomas ; and he, being nocht habill to fufteue thair force and malice at that tyme, eftir he had reterit him felff with his wyffe and bairnis, thay perfewit thame with diuerfe ythiris fehottis, and crewallie infiftit and invadit thame for thair slauchteris ; as the markis of the faidis fehottis vpoun the wallis, duris and yettis⁷ of the faid Thomas Nafmythis duelling hous and yairdis may cleirlye testifie : As lykewyis, eftir thay had delafcht thair haill hagbutis and piftolettis att him, thay maift crewallie and vnmercifullie invadit and perfewit the faid Sir Thomas Kennedy to the Kirk Yaird of Mayboill, quhair thay wald nocht haif failzeit to haif flayne him, gif be the provifioun of God, and darknes of the nycht, he had nocht bene feperat fra thame, and efchapit thair bludie handis. As at mair lenth is contenit in our fouerane lordis lettres, rafit at the instance of the faid Sir Thomas Kennedie of Culzean, and Mr Thomas Hammiltoun of Drumcarn, Aduocat to our fouerane lord for his hienes interes, thairvpoun : lauchfull tyme of day bidden and nocht enterand thame, the faidis cautioneris, *refpectiue*, wes vnlawit for nocht entrie of the faidis perfonis in the panis contenit in the Actis of Parliament, viz. The faid Matho Dunduff alias Stewart, wes vnlawit for nocht entrie of the faid Johnne Mure of Auchindrane, in the pane of flyve hundreth markis ; and for nocht entrie of the faid Johnne Mure, fone to Quintene Mure in Careloy, David Sinclar and Johnne Schaw and Patrik Davidfoun, for ilk ane of thame, in the pane of ane hundreth markis : And the faid Johnne Mure of Auchindrane wes vnlawit for non entrie of the faid Alexander Kennedie, fone to Hew Kennedie, in the pane of twa hundreth markis, and for nocht entrie of David Mure and Johnne Dunduff, alias Stewart, for ather of thame, in the pane of ane hundreth markis.

¹ Hidden, concealed.² Before.³ Aware.⁴ Without.⁵ Discharged, old Fr., *deslacher*.⁶ A sort of large musket, or *harquebus*.⁷ Yets, gates.

Lyke as, the saidis principall perfounis nocht comperand, wes adiudgeit to be demneit our fouerane lordis rebellis and putt to his hienes horne; and all thair movabill guidis ordanit to be escheit and inbrocht to our fouerane lordis vse, as fugitives fra his hienes lawis, for the saidis crymes.

Umbesetting the Highway — Hamesucken — Shooting of Hagbutts and Pistolets, &c. — Murder.

Eodem die.—MATHOW STEWART of Dunduff (*alias* DUNDUFF OF THAT ILK.)

Dilatit of cuning be way of Brigancie, vnder seilence and cloude of nycht, to Thomas Nasmythis zaird in Mayboill, and umbefetting the hie gaitt to Sir Thomas Kennedie of Culzeane, and schuting of pistulettis and hagbuttis at him, be way of Hamesuckin; committit the thrid day of Januar lastbypast.

PERSEWARIS, Sir Thomas Kennedye of Culzeane, Mr Thomas Hammiltounne aduocat.
PRELOQUITOURIS for the pannell, The Laird of Craigiehall, (*viz.* Hary Stewart.)

The said Hary Stewart takis instrumentis of the entrie of Matho Stewart of Dunduff; and protestit, that he as cautioner be relewit.

The said Hary Stewart becom pledge and fouirtie for Mathow Stewart, that he fall compeir before our fouerane lordis Justice, &c. the saxtene day of Februar instant, &c.

Feb. 16.—THE quhilk day, Matho Stewart *alias* Dunduff of that Ilk, (vnder protestation that he grantis nocht the lybell to be relewant anent the hamesuckin and foirthocht felony, quhairof nane of thame is qualifeit, bot ar only mentionat be way of narration, to induce the cryme quhairvpoun the Dittay is resoluut, *viz.* the convocatioun, and schuting of pistolettis; and that he grants nocht the schuting, wering or having of hagbutis or pistolettis, vpoun him selff that nycht); he is content to submitt himselff to his Maiesteis will, anent the cryme of Convocatiounne, and being present with the perfounes contenit in the summondis, sum of thame being his fernandis, haifing and schuting of pistolettis att Sir Thomas Kennedie of Culzeane that nycht: And cravis my lord Justice to report to his Maieste and his Counfall, and ressaue answer thairvpoun.

The aduocat produceit the Kingis Warrant; quhairof the tennour followis:

REX,

MR THOMAS HAMMILTOUNNE of Drumcairn our aduocat, We greit ȝow weill. It is our will, and we command ȝow, that incontinent efter ȝe fycht heirof ȝe inist in perfeit of Matho Dunduff of pat Ilk, *alias* Stewart, dilatit of certane crymes contenit in our vthiris lettres, rasit att ȝe instance of Sir Thomas Kennedie of Culzeane, and att ȝour instance for our interes; quhilk wes continewit to ȝis day: And that ay and quhill the said Matho ap^r becom in our will, or be convict of ȝe saidis crymis be

ane Affyis : And pir presentis fall be to ȝow ane sufficient Warrand. Subſcryuit with our hand, Att Halyruidhous, the xvj day of Februar, 1597.

(Sic ſubſcribitur)

JAMES R.

In reſpect quhairof, and of the command gevin be his lienes, in preſens of my Lord Juſtice, craves proces, diſſaſſenting fra all continewatioun ; and offeris inſaſar the relevancie of the lybell in all the pointis thairof, as the ſamin is conſault, gif ony particular allegiance wer maid aganis the ſamin.

The Juſtice, with auife of the Nobill-men preſent, continewis the mater in the ſame eſtait quhill the morne. ‘ Plegio, Domino Craighall, vndir the pane of Thre thouſand poundis.’

Feb. 17.—The quhillk day, Matho Stewart of Dunduff being enterit on pannell, perſewit be vertew of our ſouerane lordis lettres, purcheft att the inſtance of Sir Thomas Kennedie of Culzeane and Mr Thomas Hammiltoun of Drumcarne aduocat to our ſouerane lord, thay comperand perſonallie and inſiſt-and in his perſuit of the crymis eſtir ſpecificit ; that is to ſay ;

DITTAY againſt the Laird of Dunduff.

FORSAMEKILL as he and his complices contenit in the ſaidis Lettres, vponne ane lurking malice and deidlie haitrent borne aganis the ſaid Sir Thomas Kennedie, cauſeles, and but ony accuſatione gewin or offerit vpoun his pairt, eſtir mony conſultatiounis and wickit dewyſis bad be thame for his ſlauchter, thay laitlie, vpoun the thryd day of Januar laſtbypaſt, directit Alexander Kennedie, ſone to Hew Kennedie of Craigneill, to await vpoun him to lerne his dyett ; lykeas, the ſaid Alexander wes familiar with the ſaid Sir Thomas att his hous, and that ſamin day vpoun the feildis, and att Corragwell, be taking of his guid nycht, and taking aff his hatt, according to his wountit familiaritie with him ofbefore ; and ſwa, thay haifing vnderſtand be the ſaid Alexander Kennedie, that the ſaid Sir Thomas wes to ſoup that nycht in Thomas Naſmythis duelling hous in Mayboill, lyand within the Baillerie of Carrik, and Sheref dome of Air, quhair he did remane and repair ; thay, with convocatioun of our ſouerane lordis Liegis, to the number of ten perſounis or thairby, bodin in feir of weir,¹ all inarmit with hagbutis, piſtolettis and vpiris wappinnis *inuafue*, come thane vnder ſylence and cloud of nycht to the ſaid Toun of Mayboill ; and efter thay had ſtellit thair horſſis att the Guidwyffe of Knokdais ȝettis in Mayboill, thay convoyit thame ſelfſis ſecreitlie within the ſaid compleneris hous, as place meiteſt for accompliſhment of thair maiſt crewall, vngodlie and barbarous interpryſe ; quhair thay ſtuid darnit² betuix tua edȝis awaiting for his ſlauchter, and to haif mordreift him be way of Hamefuckin, Brigancie and Umbefetting of his hie gait, and be way of foirthocht felony, precogitat malice, conſpyrit and dewyſit murthour, &c.³ He being airt and pairt thairof ; demereiting thairby maiſt hie and worthie pwneifhment ; to the grit contempt of our ſouerane lordis authoritie and lawes of this realme, and to the maiſt barbarous example of vthiris to committ the lyke.

And being inquiryrit, quhidder he wald abyde the Tryell off ane Affyſe, or cum in his Maieſteis will for the ſaidis crymes ; the ſaid Matho declarit that he had nather hagbut nor piſtolett the nycht aboue writtin, contenit in the lybell,

¹ Arrayed in a warlike or hostile manner. ² In concealment. ³ The remainder of the Dittay is the ſame as is contained in Johnne Mure of Auchindrain's caſe, (Feb. 15,) q. v.

nather yit fchot ony ; nochtwithftanding thair of, he becumis in his Maieftis will for the faidis crymis contenit in the lettres : Quhairvpoun the faid Mr Thomas Hammiltoun of Drumcarne aduocat askit instrumentis. And ficylke, the faid Matho Stewart of Dunduff becumis in the Erll of Caffillis, and Sir Thomas Kennedie of Culzeanis will for the crymes abone writtin, contenit in our fouerane Lordis lettres, rafit att the inftance of the faid Sir Thomas Kennedie and Mr Thomas Hammiltoun ; his lyffe and landis being exceptit : And actit and obleift himfelf to vnderly thair judgement, quhat ewir thay fould decerne thairanent ; quhairvpoun the faid Sir Thomas Kennedie of Culzean askit instrumentis.

‘ Wardit in the Caftell of Edinburghe.’

Feb. 28.—The quhilk day, Matho Stewart of Dunduff being prefentit on pannell, to heir and fe our fouerane lordis will declarit, anent the crymes quhairfore he become in will. in ane Court of Jufticiarie, haldin in the Tolbuith of Edinburghe, the xvij day of Februar inftant ; The faid Juftice depute produceit his Maieftis Lettre, directit to him, for the declaratioun of his hienes will, quhilk he defyrit to be red in judgement to the faid Matho Stewart of Dunduff, and the famyn being red, to be infert and regiftrat in proces ; quhair of the tenour followis.

DECLARATION of the *King's Will.*

JAMES, be pe grace of God, King of Scottis, to our Juftice generall and your deputeis, greiting. Forfamekill as, in ane Juftice Court, haldin in pe Tolbuith of our burcht of Edinburghe vpoun pe fewintene day of Februar, J^m. V^c. fourfeoir and fewintene 5eiris, be our lowit Mr Williame Haert of Lewielandis Juftice depute, to our rycht traift coufing and counfalour, Ar^l. Erll of Ergyll Lord Campbell and Lorn our Juftice generall, Matho Stewart of Dunduff being acenfit be Sir Thomas Kennedy of Culzeane, kny^t, and Mr Thomas Hammiltoun of Drumcarne, our aduocatt ; that the faid Matho and his complices, contenit in our lettres direct pairvpoun, vpoun ane lurking malice, &c. [Follows the Dittay.] The faid Matho Stewart become in our will for pe crymes contenit in our faid vpiris lettres ; and als become in pe will of our rycht traift coufing and counfalour, Johnne Erll of Caffillis, Lord Kennedy, &c., and of pe faid Sir Thomas Kennedy of Cuilzeane, kny^t, for pe crymes foir-faidis ; his lyfe and landis being exceptit ; and actit and obleift him felf to vnderly our judgement, our faid rycht traift coufingis and the faid Sir Thomas’ judgement, quhat ewir we or thay fould decerne pairanent ; as ane Act of our buikis of Adiornall maid pairvpoun att mair lenth proportis. We, be pir our Lettres, publeifch and declairis our will toward the faid Matho Stewart of Dunduff in manner following: That is to fay :—fforamekill as We haif fene and confidderit the declaratioun of pe will of our faid rycht traift coufing Johnne Erll of Caffillis, and of pe faid Sir Thomas Kennedy, aganis quhome the faid wickit interpris wes dewyfit, berand in effect, that thair will is that the faid Matho Stewart of Dunduff falbe baneift this our realme of Scotland, and als the realmes of Ireland and England, and all Iles, landis and dominiones pertaining to ony of pe faidis realmes, and that induring pe willis of our faid rycht traift coufing and counfalour and of pe faid Sir Thomas Kennedie, and ay and quhill thay bayth coniunctlie and in ane voce declair the contrairie, will be writt ; and that he fall depairt to quhat realme or countrey he pleafis (except as befoir exceptit) betuix pe dait hereof and pe fyftene day of Maij nixtocum, and fall remane furth of pe faidis realmis of Scotland, Ireland and England, and all Iles,

landis and dominionis appertening to ony of þe saidis realmis ; and fall nocht retorne withine our realme without Licence of our said rycht traift counsail Johne Erll of Cassillis and the said Sir Thomas Kennedie, coniunctlie, had and obtenit pairto in writt : And als, vnto þe tyme of his depairting furth of our realme to þe places quhair he is baneist, he fall na wyis repair within þe toun of Mayboill, nor ane myle about, nor na vp^r pairt quhair our said rycht traift counsail and the said Sir Thomas sal happin to be, vnder þe pane of Fyve Thowfand merkis money of our realme, to be payit to þe said Sir Thomas, his airis and assignais, in cais of contraventioun of ony point of þe premissis : And þe said payne to be applyit to þe vse, vtilitie and proffit of þe said Sir Thomas, his airis, executouris and assignais allanerlie : **QUHILK** Declaratioun of pair will we ratifie, approve and affirme in all pointis, heidis and circumstances, and be þir presentis decernis and ordanis þe same as ane pairt of our will, to be reallie and with effect fulfillit and obeyit : And that it fall nocht be lesun to þe said Matho Stewart of Dunduff to contravene the samin directlie or indirectlie, for quhatsumewir caus or occasioun, be our outter declaratioun to be maid be ws heireftir, or ony licence or dispensatioun to be grantit in hurt or preiudice of þir presentis. And fforder, We will and declair, that the said Matho Stewart of Dunduff fall consent and pay to our Thesaurar, in our name, the sounge of Ane thowfand merkis money of þis realme, togidder with þe vnlaw and amerciamentis in þe quhilkis he standis cautioner for certane his complices, pairtakeris of þe said cryme. **THAIRFORE** it is our will, and We requyre **ȝow**, that incontinent eftir þe sycht heirow, **ȝe** caus the said Matho Stewart of Dunduff to be presentit in ane Justice Court befor **ȝow**, and to mak publicatioun of our will, as said is, and to caus dome to be pronunceit aganis him, conforme pairto ; and that sufficient cautioneris and fouerteis be fundin be þe said Matho Stewart, for fulfilling and obeying pairto : And that he be reenterit in waird, within our Castell of Edinburghe, and that he remane in fuir firmance pairtill, ay and quhill the said Caution and fouirtie be fund, to þe effect foirsaid : As **ȝe** will answere to ws pairvpoun. The quhillk to do, We commit to **ȝow** our full power, be þir our present Lettres. Gewin under our Signet, and subscryit with our hand, Att Halyruidhous, the last day of Februar, and of our regne the xxxj ȝeir, 1597.

(Sic subscribitur)

JAMES R. . A. ELPHINSTOUNE.

According to the quhillk Letter, and his Maiesteis Will declarit thairin, the said Justice depute, be the mouthe of William Liddell, dempstar of the said Court, pronunceit dome agane the said Matho Stewart of Dunduff, and publeifschit the hail premissis to him ; and decernit and ordanit the said Matho to fulfill, obtemper,¹ and obey the samin in all poyntis, and to find sufficient cautionne and fouirtie for obedience thairto ; and delyuerit him to James Nisbet, ane of the Bailleis of Edinburghe, to be reenterit agane in waird within the Castell of Edinburghe, to remane in fuir firmance thairintill, ay and quhill he find sufficient caution and fouirtie to the effect foirsaid, conforme to his Maiesteis will aboue reherfit. Quhairvpoun the said Sir Thomas Kennedie of Culzean askit actis and instrumentis.

Mar. 1.—At a Court held this day, a document, declaring the Will of the Earl of Cassillis and Sir Thomas Kennedie, was produced, dated at Edinburgh the penult day of February 1597, and ordained to be registered in the books of adjournal. It is precisely in the terms rehearsed in the Declaratioun of the King's

¹ Comply with, *obtemperare*.

Will. Vponn the publeifching and declaration of the quhilk will, Mr Alex^r King, aduocat, in name of the faid Erll of Caffillis, Lord Kennedy, &c., and the faid Sir Thomas Kennedie of Culzean for him felff, afkit actis and instrumentis.

Willful Fire-raising—Burning of Corns.

Mar. 8.—JOHNNE KEITH, fear of Troup ; Williame Roife, his feruand ; Williame Keir and Williame Dalgarno, feruitouris to George Erll of Marfchell.

Comperit James Chene of Straloch, and produceit our fouerane lordis Lettres, dewlie execute and indorfat, as the famin beris ; togidder with ane Precept, direct fra his Maieftie, ordaining the Lettres vnderwritten to be defert ; quhairof the tennour followis.

REX,

JUSTICE, Justice Clark and your deputis, We greit you well. Forfamekill as it is vnderstand to us, that our louitt, James Chene of Straloch, haifing fund caution to you, according to the ordour, for agane bringing of our Lettres, rafit att his and our aduocattis instance, for our interes, for calling of Johnne Keith, fear of Troup, Williame Roife, his feruand, Williame Keir and Williame Dalgarno, feruitouris to our rycht traift coufing, George Erll of Marfchell, to vnderly our lawis before you, in our Tolbuith of Edinburghe, vpon the aucht day of March instant, for the treafounabill Raifing of fyre and birning of his coirnis of Crwvy, in the moneth of Nouember laft, vnder the panis contenit in our Actis of Parliament : The faid James Chene of Straloch directit ane boy with our faidis vpiris lettres, to haif caufit the famin be execute aganis the faidis perfonis ; quhilk boy, in his returne pair-with hither, wes vmbefett in the way befide Sanct Laurence Kirk, be ane young man vnknewin to him, and nocht only bereft of our faidis vpiris lettres and vpiris fummondis, quhilkis he had vpon him for the tyme, bot als him felff wes strikin xiiij or xv ftraikis in the heid, and left him lyand for deid ; quhairby the reporting of our faidis vpiris lettres, dewlie execute and indorfat att the faid day, is impedit, and the faid Laird of Straloch forceit to raife new lettres, quhilk requyres ane langer and ane new day : In refpect quhairof, it is our will, and we command you, that vpon the fycht heirof, ye defist aganis the faid James Chene of Straloch, or Johnne Cuming, fear of Ernfyde, his cautioner, for nocht reporting of our faidis criminall lettres, dewlie execute and indorfat vpon the faid aucht day of March instant, conform to the Act maid pairament. As ye will anfuer to us vponne your office and obedience, kepend thir presentis for your Warrant, Subfcrvuit with our hand, Att Halyrudhous, the fourt day of March, 1591.

(Sic fubfcribitur)

JAMES R.

Quhilk Precept the Justice admittit.

[*Mr Williame Boirthuik, Justice-Depute.*]

Slaughter—Mutilation.

Maij 15.—JOHNNE INNES, alias M^cCARIE, burges of Elgyne, Johnne Innes, younger, his fone.

Dilatit of airt and pairt of the flauchter of vmq^{le} Williame Hay, faderis broder to Williame Hay of Mayne ; and of vmq^{le} Agnes Leslie, the relict of vmq^{le}

Mr Alex^r Dowglas, funtyme proveit of Elgyne, (and for airt and pairt of the mutilatioun of the said Williame Hay of Mayne of his left hand); committit (vpoun the xxj day of March lastbypast, vpoun sett purpois, provisioun and foirthocht felony, within the burcht of Elgyne.)

PERSEWARIS.

Mr Alex^r Hay, ane of the Clarkis of our souerane lordis sessioun, (for Williame Hay's slaughter;)

Mr Thomas Hammiltoun, advocat, (for Agnes Leflie's slaughter.)

PRELOQUUTOIR (for the pannell).

Mr Johnne Russell.

The aduocat producit his Maiesteis Warrant, for perfruit of the Lettres, purchest att the instance of the kyn and freindis of vmq^{le} Williame Hay and vmq^{le} Agnes Leflie.

Comperit Mr Johnne Russell, prolocntour *et excusatorio nomine* for Johnne Innes, eldar, burges of Elgyne, and producit ane Testimoniall, subferyuit be the Bailleis of Gornuik, testefeing that the said Johnne Innes eldar, schipit thair, to haif bene transportit fouth to this burcht, to vnderly the law, for the slaughter contenit in the Lettres quhairwith he is summond; and be aduersar wynd being continewallie sensyne, could nocht compeir personallie: And in lyke manner producit ane vther Testimoniall, subferyuit be Alex^r Hay, minister att Dippill, testefeing the inhabilitie of the said Johnne Innes; and rycht swa, producit ane vther Testimoniall, subferyuit be Mr Thomas Gordoune, notar publict, testefeing this famin inhabilitie: And in respect thairof, protestis that na proces can be led aganis the said Johnne nor his cautioneris. The aduocat answaris, that the Testimoniall aucht nocht to be reffanit, in respect of the Act of Parliament and practik of this judgement, admitting na assoinzeis¹ for the non comperance of parteis summond to vnderly the law, bot sic as ar verifeit be the ayth of ane Minister and twa witneffis, deponand vpoun thair awin certain knowledge.

The Justice ordainis proces, in respect of the Act of Parliament.

The persons summoned on the Assyse, protested their compearance, and that they be not summoned in time coming.

The Justice ordained James Petrie, burges of Elgyne, cautioner for the said Johnne Innes, elder, 'to be vnlawit in the pane of Twa hundreth markis; also ordanit the said Johnne Innes, eldar, to be denunceit our souerane lordis rebell, and putt to the horne; and all his movabill guidis to be escheit and inbrocht to his Maiesteis vse, as fugitive fra his hienes lawis for the saidis crymis.—Continued to the Air of Elgyne, tertio Itineris.'²

¹ *Essoyne*, Old Fr., excuse for non-appearance in Court, &c., by oath that party is sick, &c. ² On Jul. 25, Williame Gordoune of Geicht, as cautioner for Johnne Innes, elder, is fined 400 marks, being 'double of the panis contenit in the Act of Parliament, becaus he wes at the horne.' Innes is of new denounced rebell, and his goodis ordained to be escheit.

[*Mr Williame Hairt, Justice-Depute.*]

Taking Captive and Prisoner — Bailies' Jurisdiction — False Imprisonment.

JUN. 2.—MR JAMES HAY of Rannes.

Dilatit for taking of Alexander Rychardfounne, in Fynnauchtie, captiue and presoner.

PERSEWARIS.

Alexander Rychardfoun in Fynnachtie,
Mr Thomas Hammiltounne.

PRELOQUUTOURIS for the pannell.

Mr Johne Scharpe, aduocat, Mr Johne Dempstar,
Mr Robert Cokburne.

It is allegeit, that the taking of the persewar is na cryme, in respect that Mr James Hay had sufficient power, be reafoun of his Infeftment and Lettres of Baillierie, quhilk gaif him power, as it proportis. The baill clauffis quhairof being presentlie produceit, he repetit ane speciallic, that claus thairof, that he hes power to pwneis transgressouris *secundum juris ordinem*; and this persewar being dilatit for ane recent thift of twa scheip, quhilk wes stollin fra Gilbert Paterfoun, the ane quhairof he fauld to Leonard Coull, the vther to Elisabeth Alexander, bayth duelland within the said barony; and this persewar being brocht before (an Affise?) and the skynnis being schawin to thame, he confest that he fauld the scheip; and swa he (the pannell) committit na cryme, nor did na wrang, gif he had detenit him, quhill he (the pursuer) fand caution, as law will; and he finding caution, he lait him to libertie: Quhilk caution he fand in the Court-buik, as the act produceit in the Court-buik beris.—The Aduocat allegeis, that the alledgance aucht to be repellit, for twa cauffis; fyrst, becaus the Infeftment of the Baillerie produceit, gewis na power to the pannell of jurisdiction criminall, or of ony thing that may import *poteftatem vite et necis*, or to tak or imprefoun the Kingis frie liegis; secundlie, in caise ony sic power could be pretendit, be vertew of the said Infeftment, the famin could newir be extendit farder nor ane power of ane Barroun baillerie, quhilk can na wyis gif authoritie to the partie inest to deteine the Kingis frie liegis, alledgeit tane vpoun the suspicion of ane cryme, attoure¹ the space of xxiiij houris; nather makis this Infeftment ony mentionne of *pitt and gallous*, quhilk ar the only terms quhairby Jurisdiction is gewin to Barrounis, of thair Bailleries of materis criminall: Attowre, it is to be markit, that the Act of Court verifeis the detention of the persewar fyve dayes eftir his taking.—Ansueris the defender, that, in this caise, it is altogidder impertinent to disput *de vita et necce, pit et galluse*; *quia de hoc non agitur*; and the Baillerie gewis sufficient authoritie of the apprehension of ony suspect of Pykerie,² and to keip him quhill he found sufficient

¹ Above, further than, beyond.

² Petty theft.

cautioun, as law will; according to the custum of all barrounis and baillereis, quhilk wes newir callit in questioun ofbefore.—The Aduocat answers, he that hes nocht power to cognos and desyde in ane caus criminall, hes nocht power to tak, and impresoun, and detein ane frie liege.

The Justice continewis Interloquuntour to Tyisday; and ordanit the said Mr James Hay to find cautioun, and remit the partie *apud acta*.

(Jun. 6.)—The Justice continewis Interloquuntour in the said mater, to the morne, &c.

(Jun. 7.)—The Aduocat produceit ane Warrant, subseruyit be his Maiestie, direct to the Justice, &c.; quhairof the tennour followis.

REX,

JUSTICE, Justice-Clark and your deputis, We greit you weill. It is our will, and We command you, that, vponne the sycht heirof, ye navyise proceed in ye criminall caus persewit before you this day, at ye instance of Alexander Rychardfoun, and our aduocat for our interes, aganis Mr James Hay of Rannes, for ye violent taking, detening and withhauolding of ye said Alexander in captivitie and presonne, vsurping pairby our autoritie, conforme to ye lawis of our realme: And that ye continew your Interloquuntour to be pronounceit pairin vnto ye tyme that forder tryell may be taken pairament: Quhairfore, it is our will, and We command you, that ye navyis proceed heirintill, bot that the said mater be continewit the said Interloquuntour quhill the thryd day of ye aire, or vperwayis vpoun fyftene dayes wairning; as ye will answer to us vpoun your office and obedience: Quhairament thir presentis falbe your warrant. Subseruyit with our hand, Att Edinburgh, the sewint day of Junij, 1598.

(Sic subseribitur) JAMES R.

It is answerit, that the said Letter aucht nocht to be admittit, in respect it is ane privie Letter aganis Justice and the Act of Parliament; and als, his Maiestie directit ane command in the contrar, to do justice.

The Justice continewis the mater, to the morne, &c.

(Jun. 8.)—INTERLOCUTOR. The Justice findis, that the mater fall nocht pass to ane Inqueist, in respect of the allegiance proponit, sufficientlie verifeit.

Quhairvpoun Mr James Hay of Rannes and his proloquuntour askit actis and instrumentis.

Oppression — Inflicting Torture for Discovery of supposed Theft.

Jul. 13.—JAMES CRAWFURD, goldsmyth, burges of Edinburgh; Magnus Anderfoune thair; and Johne Anderfoune, fensar (tailzeour burges) thair.¹

Dilatit for taking and apprehending of Margret Gairdner, dochter of vmq^{le} Williame Gairdner in Sammelftoune, and stryking of ² hir finger in ane har-

¹ The case was continued from Jul. 10 and 11 to this day. The barbarities inflicted by these wretches, in attempting to discover if this poor girl knew of Crawford's purse, supposed by them to have been stolen by her, have seldom been equalled. ² Off.

row boir,¹ byrning hir with hett tayngis,² vpoun the schoulderis, and vnder the oxfteris,³ &c. ; committit in the moneth of Februar lastwas.

PERSEWARIS, Margret Gairner, Mr Thomas Hammiltoun of Drumcarne.

Comperit Margaret Gairner, and past fra the perfuit of the saidis perfounes *simpliciter*, for the saidis crymes.

The advocat substitute⁴ Mr Thomas Wilfoun aduocat, his depute.

The pannell denyis the Dittay, and produceis ane Declaratioun, subscryuit be Margaret Gairner, quhairby sche hes declarit the pannell to be innocent.—The said Mr Thomas Wilfoun protestit for Wilfull Errour, in caise the Assyis acquit, nochtstanding of the Declaratioun, quhilk is priuatlie purchest, sen sche verifeit the contrair aganis James Crawford, in presens of the King and Counsal.—The Assyse protestit in the contrar, seing that (there is) na thing produceit for instructioun of the Dittay, nor na partie comperit to sweir the Dittay ; bot, before thair chesing, sche past *simpliciter* fra the accusatioun.

The Assyis chesis Phillop Mowbray⁵ chancellor.

SPECIAL VERDICT. The perfounes of Assyise being chosin, sworne and admittit, eftir accusatioun of the saidis James Crawford, Magnus Anderfoun and Johne Anderfoun, be Dittay, of the crymes eftir specifeit, they remowit altogidder furth of Court to the Counsallhous, quhair thay reasonit vpoun the pointis of the Dittay ; being resoluut thairwith, thay re-enterit agane in Court, quhair the said perfounis of Assyis, all in ane voce, Acquitt the said perfounes of the DITTAY vnderwrittin, to witt : That thay, in the moneth of Februar lastbypast, come to Margaret Gairner, dochter to vniq^{le} Williame Gairner in Sammeltoun, sche being in peciabil maner, in seruice with Jhone Hewie, burges of Edinburgh, without ony kynd of offence committit be hir to thame ; and thair, maist violentlie patt handis on hir persone, tuik hir captiue and presoner furth of hir said maisteris duelling-hous, and convoyit hir to the said Magnus Anderfounis duelling-hous, within the said burcht ; quhair thay, with all kynd of regour and threatningis, chargeit hir to confes that sche had ane purs with money thairin, perteing to the said James Crawford, alledgeit tynt⁶ be him in the said Johne Howeis hous ; and becaus sche wald nocht confes the haifing thairof, being maist innocent and cleane of the away-taking of the samin, thay immediatlie the samin nycht, careit hir captiue to ane hous besyde the said burcht, sche being ignorant of the maister of the said hous ; and thair, compellit hir to put hir

¹ One of the *bore*s or perforations through which the teeth of the harrows are thrust. ² It may be inferred from the Dittay, that the instrument made use of by these monsters, was common kitchen tongs, heated ‘ quhill pe blaidis pairof wes reid-hett,’ which were first applied to the shoulders and back, until ‘ the samin grew cauld ;’ and, after being a second time made red hot, thrust under the arm-pits of their unhappy victim. ³ Arm-pits. ⁴ Substituted. ⁵ Of Cassillhill. ⁶ Lost.

fingar in the boir¹ of ane harrow, dang wadgeis² in the said boir about hir said fingaris, quhairby thay raif³ the flesch thair of, and cuttit the fennounis,⁴ and brak the banis of the famin, and forceit the blude to burst out at the endis of hir saidis fingaris;⁵ manassing and terryfeing hir, with the said crewaltie, to confess the haifing of the said purs, quhilk scho had nocht : And thaireftir, becaus of hir denyall, thay hett ane pair of taingis of irne in the fyre, quhill the blaidis thair of wes reid-hett, and syne patt thame betuix hir schoulderis, and vpoun hir bak, quhill⁶ the famin grew cauld ; and thaireftir hett the saidis taingis of new agane, and laid the blaidis thair of vnder hir bair oxsteris,⁷ threatning hir to confess the haifing of the said purse : And thaireftir convoyit hir captine to ane hous in Libbertoune, quhair thay detenit hir bound, be the space of fourtie-aucht houris, with the mair ;⁸ during the quhilk space, sche gatt nather meit nor drink, and lay in point of death.⁹

Quhairvpoun the saidis persounis askit instrumentis.

[*Messrs Williame Boirthuik and Williame Haert, Justices-Deputes.*]

Adultery.

Jul. 31.—ALEXANDER HAY of Delgattie.¹⁰

Dilatit of the cryme of Adulterie, committit with Elizabeth Clark, dochter to vnr¹⁰ Williame Clark in Deir, and with Katherene Anderfoun and Elizabeth Perie, seruandis to the said Alexander Hay ; committit in the hail monethis of the 3eiris of God, I^m.V^c.lxxxvj, lxxxvij, lxxxix, and lxxxx 3eiris.

PRELOQUUTOURIS for the pannell, Mr Williame Oliphant, Mr Johne Russell, Mr Johne Chene.

PERSEWAR, Mr Thomas Hammiltoune of Drumcarne, aduocat.

The pannell askis instrumentis, that the aduocat insistis vpoun the hail Actis of Parliament, and speciallie in the Act ane hundreth and fyve of King James the Sext, haldin in the Parliament 1581 yeiris.

It is alledgeit for the pannell, that the mater can nocht be putt to the knowledge of ane Inqueist, becaus the fundament of this persuit is foundit vpoun the Actis of Parliament ; and trew it is, be Act of the Quene, our souerane lordis moder, quhilk is the fyirst, it is statute, that notorious Adulteraris, eftir admonitioune preceeding, fall die the death : Trew it is, that, in the hail summondis,

¹ Hole or perforation. ² Drove wedges. ³ Tore, lacerated. ⁴ Sinews. ⁵ A process infinitely more cruel than the thumb-screw, or the ' pilnie-winkis.' ⁶ Until. ⁷ Arm-pits.
⁸ And upwards. ⁹ It is obvious that this unlucky creature had been bribed by Crawford to withdraw her prosecution ; and on this account, the Dittay not having been sworn, and no evidence adduced, the Assise had no course left, but to return a verdict in the terms above written ; for the verdict of ' Not Proven' is of comparatively modern invention, after Juries were freed from the degrading trammels under which they had previously laboured. At this period they were bound to return a verdict of ' Fylit' or ' Acquit,' Guilty or Innocent. ¹⁰ See another Trial against him ' for Adulterie with Barbara Forbes, his allegeit spous,' Nov. 25, 1598, &c.

it is nocht alledgeit, that the defendar is ane notorious Adulterar, or wes admoniſcheit, or committit ony cryme of Adulterie eftir admonitioun; and of the law, statutis quhilk ar penall ar maiſt ſtraitlie to be interpret, and ſuffer na executioun. Forder, as to the ſecund Act maid be our ſouerane lord in the Parliament, in anno 1581, it is only ane explanatioun of the former Act, in that pairt tuiching the qualitie of ane Notorious Adulterar; and thairfore, the hail circumſtances ſett doun in the former Act ar vnderſtand, of the law, to be repettit in the poſterior; and ſpeciallie, tuicheing the ſaid admonitioun, namelie in conſideratioun of baith the ſaidis Actis, all Adulteraris ar nocht appointit to be pwneift, bot Notorious Adulteraris, eftir admonitioun: And forder, the ſaidis Actis of Parliament hes newir bene *in viridi observantia*, nor zit ony perſoun putt to ony tryell, nather man nor woman, and ſwa of the Law *contraria diſſuetudine tollitur*, according to the Commoun Law, *quia et multis peccatum manet impunitum*.—It is anſwerit be the aduocat, that the alledgeance aucht to be repellit, in reſpect of the ſummondis, quhilk is altogidder conforme to the Act of Parliament of ane hundreth and fyve in number, in the Actis of Parliament 1581 yeiris, ſeing the ſamin contenis ane expre qualification of expre, notour, and maniſt Adulterie, be procreatioun of childrene in that vnlauchfull communicatioun; quhilk is ſa publict and maniſt, that it neidis na admonitioun, nather can it be amendit be abſtinence eftir admonitioun: And be the ſaid Act, admonitioun is only ordanit to be vſit quhen parteis ar ſuſpect, quhais contumacie eftir admonitioun, in that caife, makis thair cryme notour and equall to the vtheris twa qualiteis of Notour Adulterie, contenit in the ſaid Act. And quhair it is affermit be the defender, that the regour of this Act hes nocht bene putt to executioun, the contrar thair of is maniſt, be infinit examples extant in the Adjornall buikis.

It is forder alledgeit *peremptorie, contra istam instantiam*, that this mater can nocht be putt to ane Inqueiſt, becaus the ground thair of is the cryme of Adulterie lybellit, and the Commiſſaris ſentence gewin thairvpoun; quhilk ſentence proceeding vpoun the depoſitiounis of twa or thre ſubornit witneſſes. Thair is ane ſummondis of Reſprobatour¹ intentit for imprewing of thair Depoſitiounis, quhilk being reſprovin, conſequentlie the ſentence will fall; and gif the ſaid Reſprobatour wer pronunceit in the excepienis fawour, it wald furneis him ane inſallabill defence in this Judgement;² at the leiſt, wald elide the hail probatioun that wald be vſit be vertew of the ſaid ſentence; quhair of it followis, that the dependance of the ſaid ciuile judgement man furneis ane exceptioun in this criminall, that na proces falſe deduceit in this meane tyme: And becaus the ſaid

¹ An action for leading a new proof, or to re-prove the facts libelled.

² Before this Tribunal.

Commiffaris decreit is nocht as yit produceit, bot purpoffie is heireftir to be vfit *in modum probationis*, to the Affyfe, the excipient is content presentlie, the said decreit nocht being vfit for ony kynd of probatioun, feing the famin is reprovit be the said Reprobatour, and the effect thair of is *in pendente*, he is content presentlie to renunce all exceptioun, dilatour or peremptour, and that the lybell *in facto*, falbe putt to the knowlege of ane Affyfe: And forder, in caise my Lord advocat wald producè the Decreit instantlie, he is content to anfuwer thairto.— It is anfuwerit be the aduocat, that the alledgeance aucht to be repellit, in respect of the fummondis contenand ane cryme verry releuantlie sett down, and nawyis relative to ony precedand ciuile decreit; nather can thair ony thing done heirament, ciuile, before the Commiffaris, or to be done heireftir, stay the present tryell of this cryme in this Judgement: And as to the productione of the alledgeit decreit, or disputatioun thairvpoun, it is altogidder impertinent; becaus the perfewar has nather vfit it, nor alledgeit ony sic decreit, nather in his fummondis nor in his anfuweris.

Aug. 1.—[A very long preliminary discussion took place, as to the relevancy of the Libel, &c. which it is not thought necessary to insert; as it would be uninteresting to the general reader, and does not bear on any point which can be of use to the Criminal Lawyer, in modern practice.

The following Judgement was pronounced.]

THE Justice repellis the haill alledgeancis proponit aganis their relewancie of the fyrst member of the fummondis, allweill dilatorie as peremptorie; and assoilzeis fra the last pairt, *vt libellatur*: And as to the last defence, foundit vpoun the Remissionne,¹ the Justice supercedis to gif anfuwer thairto, quhill he speik with his Maiestie vpoun Furisday.²

The Aduocat, thaireftir produceit ane Warrant, direct be his Maiestie to my lord Justice, &c.; quhair of the tennour followis.

REN,

JUSTICE, Justice Clark and your deputis, We greit you weill. Forfamekill as ye fyrst day of August is appointit to Alexander Hay of Delgattie, for his comperance before you, to vnderly our lawis, for ye filthie cryme of Adulterie, committit be him with Elizabeth Clark. It is our will pairfore, and we command you to proceid and minister justice in ye said mater, conforme to ye lawis of our realme, nochtwithstanding quhatfumeuer warrant or command gewin, or to be gewin to you in ye contrar. As ye will anfuwer to ws pairvpoun: Quhairnent, thir presentis falbe vnto you ane warrant. Subscriuit with our hand, At Falkland, the fyrst day of August, 1598.

(Sic subscribitur)

JAMES R.

¹ Letters of Remission were granted to Hay of Dalgettie, 'for his being at the Feild of Gleneviot, in company with the Erlis of Erroll and Huntlie, and for his airt and pairt thair of.' The Letters likewise Remit him 'of all vther crymes and offences quhatfumevir, preceding the said Feild of Gleneviot,' 'quhill wes in the moneth of September, 1594—exceptand onlie Wichcraft, Thift and Murthour.'

² Thursday.

Aug. 3.—The Justice Repellis the alledgances, foundit vpoun the Remissioun; becaus thair is nathing produceit, to verifie. Quhairvpoun the aduocat askit instrumentis.

ASSISA.

Patrik Ogilvy of Inchmartene,	Tho ^s . Abircumbie of Murthlie,	Magnus Mowat of Boquhollie,
Sir James Scott of Balwerie,	Sir Patrick Dowglas of Kilspindie,	Andro Meldrum of Drumbrek,
Sir Thomas Kennedy of Culzeane,	William Blair of Bagillo,	Johnne Creychtoun of Innernytie,
Sir James Halyburtoun of Pitcur,	Gilbert Pennycke of that ilk,	Andro Murray of Balwaird,
Alex. Blair apperand of Balthaok,	James Lokkart of Ley,	W ^m Murray, apperand of Tulliebairdyn.

Exceptions were taken against Ogilvy of Inchmartin, on the ground of partial counsel, &c.; and that he, in consequence of a 'special letter, before he wes summond, at the speciall defyre and requeist of the Erll of Erroll, cum to this toun.'

It is forder alledgeit, that the lettres criminall wer raftit be the Erll of Erroll¹ him selff, and his seruandis att his command; the expenss thair of payit be him; the Assyse summond att his command and directione; he hes informit my Lord aduocat in this persuit as partie; he hes causit the Assyis to be summond, vpoun his expenss; he hes writtin particuler Missines to the Gentlemen of the Inqueist to cum heir, before thay wer summond: Quhilkis factis, and ewerie ane of thame, gewis ane sufficient testimony that he is partie; and zit of superabundance, it is forder eikit, that he hes solisfeit my Lord Justice him selff, as partie, sen the intention² of this caus; and lykewyis, vpoun the secund day of August instant, past to his Maiestie in Falkland, insfitt³ with his hienes that this mater sould be putt to the knowledge of ane Inqueist, in preiudice of the excipient:⁴ Quhilk lykewyis is referrit to my lord Justice declaratioun.—It is answert be the aduocat, that the alledgeance aucht to be repellit; yit as ofbefoir, in respect of his Maiesteis Warrand preceding the raising of the lettres, the lettres thame selffis proceeding vpoun ane delyuerance of the Lordis, grantit vpoun the persewaris Supplicatioun subferyuit with his hand, and of the Roll of the Assyis, lykewyis subferyuit be the persewar; and albeit the alledgeance mycht appear to contene ane relevant caus quhairfore my Lord of Errollis selff could nocht pass vpoun this Assyis, as alledgeit to haif gewin partiall counfall, in maner qualifeit in the said exceptione; yit the samin can nawyis exclud his kynnismen and freindis fra passing vpoun the said Assyis: For partial counfall is ane personall impediment, to stay the gewar thair of to pas vpoun the Assyse of that persoun aganis quhom he hes gewin partiall counfall; bot is nocht extendit to his kynnismen and freindis.

¹ In another place it is stated, that the Earl of Erroll, 'has solisfeit and travellit with his Maiestie, in pis cause, as partie.' ² Since the cause was *intentit*, or raised. ³ Urged. ⁴ The pannel.

And quhair it is alledgeit, that my Lord of Erroll is partie, it is verry absurd ; ffor possiblie my Lord of Erroll could nocht qualifie ane entres that mycht mak him ane partie, nather can he tyne or wyn¹ in this cause ; and gif he wald compeir att the bar, and seik to be admitted as partie to persew, albeit the defender kepit fyence and maid na alledgance in the contrar, my Lord Justice wald nocht, nor could nocht of his office admitt him.—It is answert be the Laird of Dalgat-tie, that that exceptioun quilk wald declyne the Erll of Erroll, wald declyne his haill kyn and freindis : And in effect, it is granted be my Lord aduocat that the Erll of Erroll can nocht pass vpoun this Assyse ; *ergo*, nane of his kyn and freindis can. It is nocht affermit in this caise that the Erll of Erroll hes gewin partiall comfall, bot expresse that he is partie ; to witt, in fortificatioun of the former alledgances, nocht only the saidis Lettres Criminall, quhairvpoun this persuit is foundit, wes rasit to him and att his command, bot the messengeris executouris thair of, bayth vpoun the partie and vpoun the Assyse, execute the samin att his speciall directioun : In lyke maner, besydes the haill particuler circumstances numerit of befoir, he hes sollicit the haill personis of Inqueist quhair wer summond to Monunday last, to remane in this toun, quhilk Assyis shuld be chosin, as thay wald do him singuler pleasour : And this, with the former argumentis, being tane coniunctlie, man infer *simpliciter* the Erll of Erroll to be partie.—The Aduocat answert, that thair can be na partie bot ane persewar or defender, or ane partie admittit for his interes ; and nane of the saidis qualiteis is alledgeit aganis the Erle of Erroll, nor can be provin be this proces ; nather can ony extrajudiciall probatioun, by the proces, be admittit in this persuit, for his Maiesteis interes, without concurrence of ony priuate partie.

The Justice, be Interloquitour, findis my Lord aduocat only partie in this persuit ; and the alledgances maid be the pannell aganis the Erll of Erroll sufficient and releuant, being provin to seclud him to pass vpoun this Assyis ; bot na argument to seclud the Laird of Inchmartene. Quhairvpoun the persewar and defender askit instrumentis : And repellis the fyrst argument maid about the four-half-about.²

The Assyse being sworne, and the partie being accusit be Dittay of the filthie cryme of Adulterie, committit with Eliz. Clark, the Aduocat producit ane Decreet of the Commissaris of Edinburghe, of the dait the penult day of November, 1596 zeiris, berand the cryme lybellit, in the selff same termes as the Dittay beris, to haif bene sufficientlie verifeit and provin aganis this defender. In respect quhair of, in caise the Assyse clange, the persewar protestis for wilfull errour.

¹ Lose or gain.

² It had been objected that Inchmartin ought not to pass on the Assise, ' because, be the Act of Parliament and commoun practik of this realme, he is nocht of the four-half-about. The aduocat refusit to answer, because this matter is nocht ane Perambulatione.'

[There follows a very long argument, on the relevancy of the Decreet of the Commissariës, which it was contended ought not to be received as proof in such a case, especially seeing that an Action of Reprobator was then in dependence, &c. Although this argument is very ingeniously conducted by the counsel for both parties, it would occupy a much greater space in this Collection than its importance seems to demand.]

VERDICT of the Assise, including the Dittay.

THE samin day, Alexander Hay of Delgatie being enterit on pannell, dilatit, accusit and perfewit be vertew of our fouerane lordis Lettres, purchest at the instance of Mr Thomas Hammiltounne, advocat to his hienes for his interes : That quhair, it is expresse prouydit, statute and ordainit be diuerse his hienes Actis of Parliament, that na maner of perfoune or perfounes within this realme commit the fylthie and abhominabill cryme of Adulterie, vnder the pane of deid and confiscatiounne of all thair movabill guidis ; as the said Actis at mair lenth beiris. And trew it is and of veritie, that the said Alexander Hay of Delgatie being in the moneth of Januar, 3eir of God I^m.V^c. fourfcoir foure 3eiris, mareit in face of Haly-Kirk, with Elizabeth, dochter lauchfull to Robert Lord Altrie ; and efter the said marriage, the said Alexander and his said spous, haifing duelt, remanit and cohabitait togidder, and continewit in mutuall societie and mutuall intertenement to vtheris, at bed and buird, as become man and wyffe lawfullie joyuit in mariage, be the space of diuerse 3eiris and monethis immediatlie following the said mariage ; nochtwithstanding qubairof, the said Alexander, vnmyndfull of his dewtie towardis God and the said Eliz^t, his spous for the tyme, and of the faythfull promeis maid be him to hir the tyme of the folempnizatiounne of the said mariage maid betuix thame, quhilk was the tyme foirfaid : He in the monethis of Marche, efter the xxv day thairof, Apryle, Maij, Junij, Julij, August, September, October, Nouember, December, Januar and Februar, and Marche before the xxv day thairof, the 3eir of God I^m.V^c.lxxxvj and lxxxvij 3eiris ; at the leift in ane or vther of the saidis monethis and yeiris of God *respectiue* foirfaid, maist schamefullie frequentit, secrete, the company and societie of Elizabeth Clark, dochter to vmq^{le} William Clark at the Kirk of Deir, and gaif the vse of his bodie to hir in the said fylthie and abhominable cryme of Adulterie : AND also, in the saidis monethis *respectiue* aboue writtin, the 3eir of God I^m.V^c.lxxxix and lxxxx yeiris *respectiue*, at the leift in ane or vther of the samyn, the said Alexander Hay of Delgatie gaif the vse of his bodie in the fylthie cryme of Adulterie and carnall copulatiounne, as said is, with the said Elizabeth Clark : And that within the places of Delgatie and Sanden, in the hallis, chalmers, voltis, felleris, loftis, wardropis, orcheardis, parkis and feildis thairrof ; and speciallie in quyet cavernis of Sanden and heichtis thairrof : In the quhilk fylthie cryme of Adulterie the said Elizabeth Clark bure, and thair was procreat betuix thame, ane barne ; and the said Alexander caufit Alexander Watt, his steward, tak vpoun him to be the fader thairto ; albeit the said barne was gottin of the said Alexanderis awin bodie, in the fylthie cryme of Adulterie with the said Elizabeth Clark, as said is : And thairthrow, hes contravenit the tennour of the saidis Actis of Parliament, and hes incurrit the panis thairin contenit.—For the quhilk crymes, the said Justice Depute put the said Alexander to the knowlege of ane Affyise of the perfounis vnderwrittin ; thay ar to say, Patrik Ogilvie of Inchemertene, &c. : Quhilkis perfounes of Affyis being chofyn, sworne and admittit, efter accusatiounne of the said Alexander, of the crymes aboue writtin, be Dittay, and productionn of ane decreit of the Commiffaris of Edinburghe, of the dait at Edinburghe, the penult day of November, the 3eir of God I^m.V^c.lxxxvj yeiris, be our fouerane lordis Aduocat, for verefcing of the Dittay ; thay removit all furth of Court to the Counsale hous, quhair thay chufit the said Sir Thomas Kennedye of Cul3eane, chancillar of the said Affyis, and reffonit and votit vpoun the poyntis of the Dittay ; and being throuchlie resoluit thair with, reenterit agane in Court, in presens of the saidis

Justice-deputis, quhair thay, be the mouth of the said Sir Thomas Kennedy chancellor, stand, pronounceit and declarit, for the maist pairt of the said Affyis, the said Alexander Hay of Delgatie to be Cleane, innocent and acquit of the cryme of Adulterie aboue writtin, alledgeit committit with Elizabeth Clark, in the quhilk cryme scho bure, and thair was procreat betuix thame, ane bairne; committit in the monethis, yeiris and placeis respectiue aboue specifit, at the leist in ane or vther of thame; and of the baill accufatiounes and Dittay aboue writtin.¹

Quhairypoun the said Alexander askit actis and instrumentis.²

Slaughter.

Aug. 1.—GEORGE WAUCHOP, broder to vmq^{le} Archibald Wauchop, aperand of Nudrie Marfchell.

Dilatit of airt and pairt of the slauchter of vmq^{le} David Edmestoun of Wowmet; committit in Januar 1596.³

PERSEWAR, Alefoun Home, the relict.

PROLOQUUTOIR, Patrik Home of Polwart.

Robert Hepburn (in Haillis, cautioner for the pannell) tuik instrumentis of the entrie of George Wauchop, and protestit that he as cautioner be relenit.—The pannell askis instrumentis, that Alefoune Home passis fra the perfruit of him this day.

Continued to the Aire of 'Edinburghe, tertio Itineris, xv dierum. Plegio Roberto Hepburne in Haillis.'

[*Mr Williame Haert of Leiclandis, Justice-Depute.*]

Witchcraft — Sorcery — Incantation, &c.

Aug. 15.—BESSIE AIKIN

Being presentit on pannell, the said Justice-depute caused intimat and reid to hir his Maiesteis Precept direct to him, quhair of the tennour ffollowis.

REX,

MR WILLIAME HAERT, our Justice, We greit 5ow weill. Forsamekle as, Bessie Aikene, being convict before 5ow be ane Affyse,⁴ wes committit to waird in our Tolbuith of Edinburghe, in respect sche wes pan with bairne, quhairby the sentence pronunceit aganis hir could nocht be putt in executioun; quhair sche hes remanit this 5eir bygane, and delynerit of ane infant, and hes sustenit lang pwneischment be famine and impreisment: Thairfoir, tempering justice with mercy, we haif pardonit and pardonis hir lyffe; and willis and commandis 5ow, that 3e caus present hir befor 5ow, and decerne hir to be baneist our realme, and to depairt within xx dayes; with certificatioun, gif sche be apprehendit heireftir, sche salbe execute to 3e deid: And to 3at effect, that 3e putt hir to libertie

¹ There is a memorandum irregularly entered before the Verdict, which shows what was the state of the vote. It stood as follows:—'The Lairds of Boquhallie, Pennycuik, Tillybairdin, Balvaird, Innernytie, Culzeane, FYLIE the said Alexander Hay of Delgatie of 3e dittay vnderwrittin: And 3e Lairdis of Drumbrek, Kilspyndie, Inchmartene, Balgillo, Murthlie, Pitcur, Balwerie, Balthyok, and Ley, ACQUITT him.'

² See Nov. 25, 1598, where another Trial, 'for Adulterie with Barbara Forbes, his allegeit spous,' occurs. ³ Robert Birrel thus records this murder. 'David Edmonstoun of the Wowmit flaine be Thomas Christifon, be the thott of ane gun.' ⁴ For Witchcraft, &c. See Nov. 12, 1597.

furth of our said tolbuith : For þe quhilk this falbe to ȝow ane sufficient warrand. Subferyuit with our hand, Att Dalkeyth, the xv day of Auguft, 1598.

(Sic fubfcribitur)

JAMES R.

According to the quhilk precept, the Juſtice, be the mouth of William Blak, decernit and ordanit the ſaid Beſſie Aiken to be Baneift this realme, and newir to returne within the ſamin, vnder the pane of deid ; with certificationn, gif ſche be apprehendit thairin, ſche falbe pwneift to the death : And ordanit hir to depart within xx dayes eftir the dait heirof ; and to that effect, to be putt to libertie furth of the Towne of Edinburgh.

Slaughter — Shooting of Piſtolets, &c.

Oct. 31.—JOHNE ARNOT ȝounger of Wodmylne.¹

Dilatit of the ſlauchter of vmq^{le} Johnne Murray, ſone to Murray of Aiket, and ſeruitour for the tyme to Patrik, Commendatour of Lundoris : And for beiring and weiring, and ſchuiting of piſtolettis ; committit in September laſtwaſ.

Comperit Charliſ Murray of Haykit, and produceit our ſouerane lordis Lettres, dewlie execute and indorſat, purcheft at his inſtance, aganis Johnne Arnot, to vnderlye the law, for the ſlauchter of vmq^{le} Johnne Murray : As alſo, produceit ane vther Lettre, for chargeing of Andro Aytoun of Dinnure, and Henrie Pitkarne of that Ilk, as cautioneris for the ſaid Johnne Arnot, to enter him this day ; (quha) proteſtit for releif of thair cawtionis.

Comperit Mr David Wardlaw, and produceit ane Warrand, for continewatioun of the perſuit of Johnne Arnot, to the third day of November nixt to cum ; off the quhilk, the tennour followis.

REX,

JUSTICE, Juſtice Clark and ȝour depntis ; We greit ȝow weill. Forſamekle as We haif borne ane ernest intentionn to ſie juſtice miniſtrat with all regour in this accident that intervenit in þe ſlauchter of vmq^{le} Johnne Murray, ſeruitour to Patrik, Commendater of Lundoris, be Johnne Arnot, ȝounger of Wodmylne ; and heirtofoir, in our awin perſoun, heſ tane panes in that mater : And now, be reſſoun of our vther grit adois,² We ar forcit for ſum dayis to be abſent ; and We nawayis being willing that ony proceeding be pairintill quhill our returne : Thairfoir, We haif thoct meit and expedient that ȝe fall continew and prorogat the perſuit and dyet, quhill þe thrid of November nixt ; and nawyis proceid pairin, quhill þe ſaid day ; alwayis retening that ſame cawtionne for the ſaid Johnne Arnot, quha was reſſaut for him offbefoir ; or vpirwayes, that ȝe cauſe him to be wairdit within our tolbuith of Edinburgh, thair to remane quhill the ſaid thrid day : Quhilk nawayes ȝe fall failt to do. And ȝe will anſuer to ws, vpoun þe diſcharge of ȝour offices and ȝour dewtifull obedience ; Qubairnant þir preſentis fall remane to ȝow for warrand. Subferyuit with our hand, Att Halyrudelhous, the laſt day of October, 1598.

(Sic fubfcribitur)

JAMES R.

¹ The objections to, and arguments on the relevancy of the Libel, in this Caſe, are ſo important, and the Counfell, on both ſides, being men of ſuch eminence in their profeſſion, the Editor has thought it neceſſary to give the whole at length, as preſerved in the Record.

² Business, affairs.

Andro Aytoune of Dinmure and Henric Pitcarne of that Ilk become plegeis and fourteis, coniunctlie and feuerallie, for Johne Arnot 3ounger of Wodmylne, that he fall compeir befor our souerane lordis Justice or his deputis in the Tolbuith of Edinburghe, the thryd day of November nixt to cum, to vnderlye the law for airt and pairt of the slauchter of vniq^{le} Johne Murray, seruitor to Patrik, Commendator of Lundoris; vnder the pane of Ten thousand pundis.

PERSEWAR, Charles Murray of Ayket, as father.

PRELOQUUTOURIS.

PRELOQUUTOURIS for the pannell,

My Lord of Lundoris, Tyllybairdin 3ounger,

Mr Johne Scherp, Mr Thomas Craig, Mr Jo. Ruffell,

My Lord aduocat, The Laird of Balvaird,

Mr Will. Oliphant, Andro Arnote minister of Scotland weill, Alexander Drummond of Medope.

The Laird of Polmais.

Nov. 3.—The pannell askit instrumētis, that nane of the kyn and frendis of vniq^{le} John Murray compeiris to persew, except the father, with the preloquutouris nominat.—The aduocat declairis, that he infistis only vpoun the lybell, insofar as it is foundit vpoun the Actis of Parliament only. Quhairvpoun the perseweris askit instrumētis.—The perseweris declairis that thay adhair to my Lord Aduocatis declaratioun.

It is allegit for the pannell, that the publicatioun of the Actis of Parliament quhairvpoun the persute is foundit allanerlie, now aucht to be schawn and produceit, befor any forder proces; becaus the publicatioun thair of is expresse lybellit, and the lybell makis relation thairto; and the leigis can nocht be constitute *in mala fide*, befor the samin Actis be lauchfullie publeischit; and speciallie, the Actis quhairvpoun the summondis is foundit, quhilkis imponatis¹ a heich and grit pane aganis the haille inhabitantis of the realme, to witt, amputatioun of the richt hand, and escheit of thair haille guidis moveabill.—The aduocat declairis the alledgeance meritis na ansuer.—The persewer acceptis the aduocatis ansuer; and allegit, that the pannell, adherand to the former alledgeance, can nocht be compellit to enter in disputation vpoun the Summondis or Dittay proponit aganis him, quhilk is foundit expresse vpoun that publicatioun of the Actis of Parliament, befor the samin publicatioun be ather proponit or replyit, and the manner of publicatioun ather is knawin to the Judge, after the production or allegatioun, quhilk the Judge, be the lawis of this realme, may find to be ane sufficient publicatioun: For it is certane, be the lawis of this realme, that ane Act of Parliament vnpublicifit can never constitute the legis *in mala fide*, nor be na sufficient ground, quhairby they may be persewit, accensit criminalle nor ciuillie; speciallie, in respect of dyuerse Actis maid anent the publicatioun of the Lawis of this realme, and speciallie, anent the Act maid in the zeir

¹ Imposes. Lat. *imponere*.

of God I^m.V^c.lxxix, that the Actis of Parliament could nawayis constitute the legis *in mala fide*, befor the famin was publesit. It is forder allegit, that quhan-foeuir the publicatioun of Lawis and Statutis is of neceffitie, the famin aucht to be first verifeit. And trew it is, that the publicatioun of the Actis of Parliament is speciallie appointit be expres Act of Parliament; nather can the famin vn-publeifchit bind the leigis, or induce ony knowledge to tham.—The aduocat an-
fueris, the former alledgeance, aucht to be repellit, in respect of the Summondis.

The pannell declaris that thai will cum and propone the rest of thair alledge-
ances in ordour, att command of my Lord Justice, quhilk the pannell is willing
to obey; vnder protestatioun alwayis, that my Lord Justice, the tyme of the dif-
cussing of the allegeance alreddie proponit, and of the rest to be proponit, geve
ane direct answere to the first allegeance, anent the publication of the Actis of
Parliament, quhairupon the lybell is foundit; speciallie, in respect that the first
Act of Parliament, maid in the 3eir of God lxvij, quhilk is the special Act quhair-
vpon the lybell is foundit, is of sic importance and antiquitie, and in effect is tane
away be the contrair consuetude, that the haill legis of this realme sal be in dan-
ger in the panis thairin contenit, gif the famin sal be reput as ane Law quhair-
vpoun thay may be accusit criminallie. And for verificatioun of this allegeance,
that the publicatioun of the Actis of Parliament is requisit, it is allegit be the
pannell, that the famin, be ane speciall Act, in the 3eir of God I^m.V^c.lxxix, is ex-
presslie statute.—The aduocat allegis that this allegeance is thryse repetit, and
thairfor mereitis na forder answere.

SECUNDLIE, the partie, to wit Charles Murray, with the remanent kyn and
freindis, has na actioun competent to thame to persue the first tua memberis of
the summondis, becaus the partie hes qualifeit na dammage nor intreis sustenit
be thame thairthrow.—The aduocat answereis, the secund member is verrie com-
petent to the partie informer, becaus it contenis ane hosteill invasioun of the said
vmq^{le} Johne Murray with pistolets, prohibeit be the Actis of Parliament, in per-
sute quhair of his parentis hes verrie guid entreis to informe ane Affise.—It is an-
swereit, becaus the allegeance proponit for the pannell is proponit aganis tua fe-
uerall memberis of the summondis, and the answere maid be my Lord aduocat is
only maid for sustening of the entres of the partie aganis the secund member,
containing the invasioun of the said vmq^{le} Johne Murray, as is allegit, that my
Lord Justice, befor all forder proces, aucht to geve ane answere to the allegeance
proponit aganis the entres of the partie for the first member.—My Lord (advoca-
te) declairis that he insistis only vpon the first member of the summondis, for
the Kingis intreis; quhairvnto the partie adheris. Quhairvpoun the pannell
askis instrumentis.

It is forder allegeit be the pannell, that thair is na cryme qualefeit in the fe-

cund member that may geve the partie onie entreis to persew the famin ; becaus the famin contenis na cryme quhairupon the pannell may be pwneift, at the desyre of the partie ; and albeit he wer convict of the famin cryme, the partie, be the lawis of this realme, can repoir na assythment nor satisfioun thairby, seing it is never lybellit in the secund member, that ony damage hes followit thairupoun, quhairby the partie was hurt or preiudget.—It is answert be my Lord Aduocat, the partie persewis nocht allanerlie for his awin entreis ; bot haifand entreis as is qualifeit befor, assistis the aduocatis persute.—It is answert be the pannell, that the defender can nawayis be drawin in question for his lyfe, or ony member, be ane partie quha hes na entreis ; and albeit the said aduocat may be fund to haif entreis in our souerane lordis name, to quhom and quhais entreis the pannell fall answert with reuerance, as effeiris ; that is na just caus to compell him to enter in disputation with a partie that hes na entres ; and thairfoir, the Defender desyres my Lord Justice answert directlie, quhither, gif the partie hes entreis, to insist in the persute of the second member of the summondis or nocht ; for gif the partie be fundin to haif na entreis, he aucht nawyis to be respectit in this persute, as ane informer ; and mekill mair, man be excludit as ane persewar ; seing na partie, be the lawis of this realme, can be hard to informe and concur as ane partie, as our souerane lordis aduocat, viles thair be ane speciall entreis competent to him, and that the famin entres be expresselie qualefeit : And that is nocht only obseruit in causis criminall, quhilk ar of the grittist importance, bot also in causis ciuill, quhairintill na person will be admittit to persew, without thair be ane speciall entres qualefeit, as said is.—It is answert be the aduocat, the summondis contenis the parteis intreis, in respect of the Invasioun maid aganis him ; and quhair it is allegit, that the parteis frendis can pretend na assythment, thay conclude na assythment, bot puneischement, quhilk is verrie competent to thame, for the iniurie done to the defunct. As to the comparefoun tane fra the intreis of parteis in Ciuill persutis, it is nocht pertinent ; becaus in ciuill actionis, the perseweris intreis man tend to ane conclusioun, foundit ather *super lucro captando vel damno vitando* ; bot in Criminall persutis, the conclusioun tendis only *ad penam*, quhilk is alyk competent to bayth the perseweris, and satisfies alyk baith thair intentionis, in respect of the offence committit aganis thame, as is qualifeit be the summondis.

It is answert be the defender, that the Invasioun qualifeit in the secund member of the summondis, contenis na cryme quhairvpoun ony partie may be persewit to vnderly the law, before the Justice generall and his deputis, at the instance of ony particuler partie, and at ane particuler dyet ; seing thair is nathing qualifeit for the partie in the second member of the summondis, bot *effectus sine effectu*, quhilk is puniescheable in the cryme of Trespass or Laismaiestie ; and

the partie, without concurse of our souerane lordis Aduocat, he him self; or could nevir be hard to persue the secund member of the summondis vpoun the inuasioun thairin qualifeit, att ony particular dyet, befor my Lord Justice or his deputis; quhilk cryme could nocht be put to the knowlege of ane Inqueist, albeit the partie war present, and maid na alledgeance in the contrair; seing the Justice could put nathing to the knowlege of ane Inqueist, bot that eryme, quhairvpoun puneishment might follow. And as to that pairt of the reply, bearing that the argument, fra the comparisoun of Ciuell caussis to the Criminall, is nocht pertinent, it is allegit, that in Ciuill caussis, quhair our souerane Lord and his hienes aduocat hes entreis, the summondis continis tua conclusiōis, quhairvpoun tua feuerall effectis follows the puneishment of the partie transgressour; to our souerane Lord, and a commoditie to the partie: And the lyk is impoirtit be Criminall persute, quhair the partie hes ony entreis, to wit, the puneishment at the instance of our souerane lord and the Assythment to the partie.—It is ansuerit be the Aduocat, that the weiring, bering and vsing of pistolettis, being prohibit be the Actis of Parliament, vnder the panes thairin contenit, the partie persewit or skaithet thairby hes verrè guid entreis to persue the offender *ad penam*: And quhair it is alleget, that in this caice thair is only *effectus sine effectu*, the lybell is nocht foundit *super mero effectu, sed super conatu qui peruenit ad actum*: And to the rest of the alledgeance, repeitis the former ansuer.—It is ansuerit, that thair is na skaith qualifeit inferrit to the partie; and thairfoir the ansuer and lybell, in that pairt, is nawyis competent to the parteis; speciallie, in respect that thair is nathing qualeseit, bot ane naikit inuasioun be allegit presenting, quhairvpoun na deid is qualifeit to haif followit; *et sic est effectus et tantum conatus, qui cum effectu idem est*; quhairvpoun na deid hes followit, as said is.

THRIDLIE, it is allegit, that the first member of the summondis is altogidder irrelevant and generall, in that pairt thairof, beiring, that the defender hes borne and worne pistoletis, in findrie vtheris partis of Fyfe, by¹ the landis of Woidmylne and Monymale: nocht condiscending in speciall vpoun the vther pairtis within Fyfe; be the quhilk generalitie the defender is preiudget of his defensis; ffor gif the persewer had condiscendit vpoun the vtheris pairtis, thair is sufficient defensis competent to the defender to haif elydit that part of the lybell; seing he posselles vtheris landis in Fyfe by the landis of Monymale and Woidmylne, sic as the Landis of Pittowie, Pinckerton, &c.: Attour the lybell is altogidder irrelevant and generall, anent the landis of Woidmylne, nocht condiscending vpoun the speciall pairt thairof; seing be the lawis of this realme he is nocht forbidden to beir pistolettis or selute thairwith, within his awin duelling-place, housis, or

¹ Forbye, besides. See p. 59, where the Lord Advocate restricts the libel.

gairdis, quhilkis ar all of the landis of Woidmylne ; in respect quhairof, the lybell, in the tua former pointis of the first member, is altogidder generall and irrelevant.—It is anſuerit, that the ſummondis is verrie relevant, in ſa far as the ſamin beiris that the defender buir and vſit piſtoletis vpoun the landis of Wodmylne (and) Monymale, exprefſlie, and vther pairtis of Fyfe, quhilk is relevant aneuch ; for the haifing and weiring thairof being forbidden in the haill realme and in everie pairt thairof, it wes nocht leſſum to the defender to haif thame in ony pairt of Fyfe : And quhair it is allegit, that the defender, duelland in Woidmylne, it was leſum to him to haif piſtoletis within his awin hous, clois and yaird, and that in respect thairof, the lybell nocht bearing the ſpeciall pairt of the lands of Woidmylne, vpoun the quhilk the defender buir and had the ſaidis piſtoletis, it is nocht relevant ; it is anſuerit, that the ſummondis ſtandis verrie relevant, beirand that he had and bure the ſaidis piſtoletis vpoun the ſaidis landis, contrair the Actis of Parliament ; quhairby it is cleirlye ſignifeit, that he had the piſtoletis, quhair, by Act of Parliament, he mycht nocht haif thame : Attour, the haifing of the piſtoletis within his hous, yaird or cloiſe, being ane deſenſe allegit competent to the partie, the perſewer was nocht obleift to mak ony mentioun thairof in his ſummondis ; bot gif thay propone ony allegiance vpoun the generalitie of the ſummondis, quhairby thay find thameſelfis preiudgeit in the particuler deſenſe competent to thame in maner foirſaid, gif my Lord Juſtice ordane the perſeweris to condiſcend, thay ſall conforme thameſelfis to his direction.

It is anſuerit be the defender, that the beiring and weiring of piſtoletis ar nocht forbidin be the Actis of Parliament, within all the pairtis of the realme ; becaus the Act of Parliament maid thairanent contenis certane limitationis and exemptionis, as the actis beiris, repeitit heir *brevitatis cauſa*. As to the ſecund member of the anſuer maid for ſuſtening of the relevancie of the lybell, beiring, that the piſtoletis war boire, woirne and vſet, incontrar the tennour of the Actis of Parliament, quhairby it is ſignifeit, that the ſamin wair boire, woirne and vſet vpoun the pairtis forbidin ; that pairt of the anſuer is na wyis relevant, ſeing it aucht to haif bene ſpeciallie lybellit, in quhat pairt the piſtolettis war boire, worne and vſet, and the lybell maid relevant and ſpeciall in that point ; to the effect that the partie mycht haif bene hard to haif vſet his lauchful deſenſis, and to haif diſpute with the perſeweris, quhither the place qualifeit in the lybell was lauchfull or vnlauhfull. Anſuerand to the thrid member of the reply, quhilk contenis ane offer maid be the perſeweris to condiſcend vpoun the ſpeciall place, gif my Lord Juſtice thinkis the ſamin neceſſar ; it is allegit be the defender, that pairt of the anſuer nawayis to be relevant ; becaus my Lord Juſtice, of his office, aucht only to judge vpoun the lybell as the ſamin is ſet down,

quhairwith the partie was summond lauchfullie, and thairupon had allegeances maid thairaganis to gif ane direct answier, relevant or nocht relevant : And the partie is nocht haldin, of reffone, to answier to ony declaratioun to be maid at the bar, quhilk consistis *in facto*, quhairupoun the Assyse ar obleift to geve thair determinatioun ; and ‘ the place ’ being ane speciall point, quhairupoun tryell aucht to be tane be the Assyse, quhilk nocht being relevantlie fet down in the lybell, the famin can nawayis be supleit be ony declaratioun to be maid.—The persewaris, to eschew prolixitie, be thair declaratioun, restrictis the woirdis of the lybell anent the haifing of pistoletis vpon the landis of Woidmylne, insafar as the famin may appeir to comprehend the hous, clois and yaird, to ‘ the landis of Woidmylne,’ outwith the house, clois and yaird ; albeit the said declaratioun be nawayis necessar, becaus the persewer was nocht obleift to lybell the defenderis exceptioun.—It is answierit, that the said declaratioun aucht nawayis to be ressaunit, the famin consistig *in facto*, tending to sa heich ane cryme to the defender, and nawayis being lybellit, for the refone foirsaid : And quhair it is allegit, that the perseweris ar nocht obleift to lybell the defenderis exception, it is answierit, that the perseweris ar obleift of the Law to fet down ane relevant lybell, quhairupoun the cryme lybellit may be inferrit ; and the Judge aucht to geve ane direct answier vpon the relevancie thair of ; and the lybell can nawayis be suppleit be ony new declaratioun maid at the bar, in prejudice of the defender.

The persewer answieris, that the summond is relevant of the Law ; and gif thair war nocht ane perticuler exceptioun proponit *in facto* aganis the allegit generalitie of this woird, (‘ the landis of Woidmylne,’) my Lord Justice wald find the famin relevant of the Law, as conteneand ane speciall tyme, place, with all vther circumstances requisit ; and sua the famin being only quarrellit be ane alledgeance *in facto*, the famin may be sustenit be ane reply *in facto*.—It is answierit, that the said alledgeance consistis altogidder *in jure et non in facto*, and is proponit aganis the irrelevancie of the summond, in the assumptioun, quhilk is mair large nor the propositioun ; and ane irrelevant lybell can nawayis be sustenit be ane reply consistig *in facto*.—The alledgeance is *in facto*, beand *privata jura rei*, cannocht be knawin to the persewer ; and thairfoir aucht nocht to be lybellit, nather can he be astrictit to lybell *negative* for the respect of thair privat defence *in facto, in facto particulare*. It is answierit, that the persewer can nocht be hard to alledge misknowledge, be limitationis, restrictionis and exceptionis contenit in the Actis of Parliament, quhairupoun the lybell is foundit.—It is answierit be the aduocat, the haill factis comprehendit in the summond man be affirmatiue, and referrit to the Assyse ; and na negatiue can be lybellit be the persewer.—It is answierit be the defender, that the factis lybellit, quhairvpon the Assyse aucht to tak cognitioun, aucht nocht to be fet down mair amplie nor

the law is maid, quhairupoun the samin is foundit; sua that the Affyse, of necessitie, may cognosce vpon ane affirmatiue, limitat and restrict as the Law preferyes.

Nov. 4.—The pannell takis instrumentis, that Charles Murray of Aitkit, with the kyn and freindis of vmq^{le} Johne Murray, comperit nocht, being oft tymes callit to that effect; and that he offerit him self reddie to answere as effeiris.

Comperit Rodger Eschtoun, seruitour to his Maiestie, and producet the Warrant vnderwrittin, quhairof the tennour followis.

REX,

JUSTICE, Justice-Clerk (and your deputis), we greit you weill. It is our will, and for certane causis and considerationis moveing us, We command you, that, vpon the sight heirof, ye continew the criminall cause persewit befor you, at ye instance of Charles Murray of Aickett, and remanent kyn and freindis of vmq^{le} Johne Murray, and our aduocat for our entres, aganis Johne Arnote of Woidmylne, ffor the slauchter of ye said vmq^{le} Johnne, beiring, weiring and schuiting of pistolettis, aganis the tennour of the Actis of Parliament, and vperis crymes contenit in our vperis letteris direct pairupoun; and that unto the thrid day of ye nixt Justice-Air of our thersedom, quhair ye said Johne Arnote duellis, or soner, vpon fyftene dayis wairning: Takand the samin or vperis new cautionn for his compeirance, vnder the samyn pane contenit in the former Act; or then enter and delyner him in waird within our Castell of Edinburgh, to remane in the meane tyme. As ye will answer to us vpon your office and obedience; keipand yir presentis for your warrant. Subseruyt with our hand, Att Halyrudhous, the fferd day of November 1598.

(Sic subscribitur)

JAMES R.

The Justice ordanit the personis vnderwrittin to be ressaunt cautioneris, in maner following:

Sir Patrik Hepburne of Lufnes kny^t, Johne Toures of Innerleyth, James Creichtoun of Ruthvennis, Thomas Abircrumbie of that Ilk, Alexander Blair, apperand of Bathayoke, Johne Traill of Blebo, Henrie Pitcairne of that Ilk, Andro Aytoun of Dymwre, Robert Lummisilene of Airdrie, and David Betoun, fear of Balfour, become pledges and souerteis coniunctlie, vnder the pane of ten thousand pundis, (viz. to ilk ane of thame, vnder the pane of ane thousand pundis,) for Johne Arnot of Woidmylne, that he fall compeir befor our souerane lordis Justice and his deputis, the thrid day of the nixt Justice-air of the thersedom of Fyfe, or soner, vpon fyftene dayis wairning; to vnderly the law, ffor the slauchter of vmq^{le} Johnne Murray, seruitour to Patrik Commendater of Lundoris; and for beiring and weiring of pistolettis.—The samin day, John Arnote, younger of Wodmylne, band and obleist him, his airis, executouris and assignais, to freith, releif and keip skaythles his cautioneris aboue writtin of thair said cautionn, and of all danger, coist, skayth and expensis, that thay or ony ane of thame may incur thairthrow.

[*Mr William Haert et Mr William Boirthuik Justices-Deputes.*]

Bearing and Weiring of Pistolets.

Nov. 3.—JAMES LOKHART, younger of Lie, Thomas Gairdner elder, and Thomas Gairdner younger.

Delaitit of contravening of the Actis of Parliament, in beiring and weiring of pistoletis.

PERSEWARIS, Adame Somervell, Thomas Somervell, and Mr Thomas Hammiltoun of Drumcarne.

It is allegit be James Lokhart, younger of Lie, that Allane Lokhart and Laurence Broun to be feik; and producet Mr William Birny, minister at Lanerk, quha, being sworne, deponit that Allane Lokhart had bene feik in the het feiknes¹ tuentie dayis befor Setterday lastwas; bot convaleffit, lyand aboue the claythis: And that Laurence Broun was lyand bedfast, vnhable to travell to this Court.—‘Continewit to the morne.’

Nov. 4.—Continued to the Air of ‘Lanark, tertio Itineris, vel xv dierum.’ Pledge, William Hammiltoun of Dynserf. Lokhart becomes pledge for Allan Lokhart and Laurence Broune.

Lying in Wait, &c.

Nov. 4.—GILBERT LORD SOMERVELL, Thomas Somervell, portioner of Grainge, Adame Somervell, feruitour to the said Gilbert, W^m Somervell in Amphorlay, James Somervell in Grenefeild, Hew Elder in Carnewath-mylne, and Hew Paterfon in Carnewath.

Delaitit for lying await for James Lokhart, younger of Lie; and for cuning to his chalmer, vnder silence of nicht, within the burch of Edinburgh.

PERSEWARIS, James Lokhart, younger of Lie, and Mr Thomas Hammiltoun of Drumcairne.

James Lokhart, younger of Lie, passis fra that pairt of the lybell persewit at his instance aganis my Lord Somervell and his freindis, sa far as the famin tuiches ony pairt of thift; reserveing alwayis his actioun ciuillie aganis thame thairfoir. Quhairupone my Lord tuik instrumentis, for him self, and the remanent impannellit.

Compeirit James Lokhart, elder of Lie, and declairit vpoun his faull and conscience, that he nevir knew of the raising of the Lettres, at his sones instance, aganis my Lord Somervell and his complices; bot was reddie to assist and defend the said Lord, in all his honest actiones: And thairupoun cravet instrumentis.—Continued to the Justice-air of ‘Lanark, tertio Itineris, vel xv dierum.’ Pledge, David Somervell of Plane, for sa mony as he was for befor; my Lord for the rest.’

¹ Fever, scarlet fever?

[*Mr Williame Borthuik, Justice-Depute.*]

Slaughter.

Nov. 10.—JAMES LYOUNE of Eifter Ogill, and Williame Lyounne in Balgillie.

Comperit Mr Thomas Rollok, aduocat, and produceit ane Warrant, subferyuit be his Maieftie and the fecretar, quhilk was admittit be the Justice ; quhair of the tennour followis.

REX,

JUSTICE, Justice-Clark and your deputis, We greit you weill. Forfamekle as the . . . day of is appoyntit and assignit to James Lyounne of Eifter Ogill, and Williame Lyounne in Balgillie, for pair comperance befor you in our Tolbuith of Edinburghe, to vnderlye our lawis for pe slauchter of vmq^{le} Alexander Cowtis ; nochtwithstanding, for certane causis and considderationis moving ws ; especiallie, for eschewing of forder troubill and inconvenientis, quhilkis be pe keping of pe said dyet may fall out : It is oure will, and we command you expresse, be your presentis, to desert pe said dyet, and to desist and ceise fra all proceeding pairin ; dispensing with pe personall comperance, allweill of pe defendaris as of pe persewaris, and with nocht reporting of pe lettres ; and that ye nawayes vnlaw pame nor pair cawtionaris, nochtwithstanding quhatfumever warrant or command gevin or to be gevin and direct to you in the contrair : As ye will ansuer to ws pairvpoune : Quhairanent your presentis falbe vnto you ane Warrant. Subferyuit with our hand, At Edinburghe, pe vij day of November, 1598.

(Sic subscribitur)

JAMES REX.

[*Mr Williame Haire, Justice-Depute.*]

Spuilzie, &c. — Liability of Earl of Argyle for the Campbells and Macgregors.

Nov. 14.—ARCHIBALD ERLL OF ERGYLL,¹ as principall ; and James Seytoun of Tillybody and James Schaw of Sauchie, as Cautioners, to enter John Dow Campbell M^cCondochie, &c.

Comperit Alexander (James ?²) Maister of Elphinstoune, togidder with Maisteris Alexander King and Johne Halyday, his preloquutouris ; and as procuratouris for Alexander Elphinstoune, brother to Robert Lord Elphinstoune, Andro Sym in Wester Rossie, William Hirdman thair, Ninian Henryfoun,³ &c. ; and produceit our souerane lordis Lettres, dewlie execeute and indorsat, chargeing Archibald Erll of Ergyll Lord Campbell, as principall, James Seytoun of Tillybody and James Schaw of Sauchie, (as cautioners,) to enter John Dow Campbell M^cCondochie, tutour of Immerraw ; Duncan Campbell, his sone ; Patrik Campbell, brother to the said Johne ; Lanchlane Campbell, brother-sone to the said Johne ; Archebald and Duncan Campbellis ; John Dow M^cGregour, brother to the Lard

¹ The Earl of Argyle is here pursued, as the King's Lieutenant of the bounds or district within which these Campbells and MacGregors resided ; in which capacity he had found security for the lawless tribes over whom he had command ; they in their turn becoming liable to him in relief, under separate bonds. ² He is designed James in the entry, Dec. 1. ³ The other pursuers, being the Master of E.'s tenants, are here enumerated, as having been injured by the Campbells and MacGregors.

of M^cGregour; John Dow, Andro Dow, founes to vinq^{le} Ewine M^cGregour; Gregour M^cGregour and Johne Dow M^cGregour, founes to Allester Skorach; Patrik Makgregour, fone to Patrik Dow M^cGregour; and James M^cGregour, fone to Duncan Glene.

PERSEWARIS, Alexander Elphinstone, brother to Robert Lord Elphinston, and others.

PRELOCUTOURIS, Alexander Maister of Elphinstoun, Mr Alexander King, Mr Johnne Halyday.

PRELOCUTOURIS for the defenders, Mr Williame Oliphant, for Archibald Erle of Argyle; Mr Thomas Craig, for James Schaw of Sauchie; Mr Robert Lyntoun, for James Seytoun of Tilliebodie.

The Justice continewis, with consent of partie, to the xxj day of the said moneth of November.

Nov. 21.—The Justice assynis the first of December to the defenderis, to gif in thair defensis.

Dec. 1.—Comperit Johne Halyday and Mr Alexander King, prelocutouris for James Maister of Elphinstoun and his Tennantes, as persewaris, aganis the Erll of Ergyll.—Comperit Mr Joline Scharp and Williame Oliphant, as preloquuntouris for the Erll of Ergyll and his cautioneris; and producit the defensis, quhilk was delynerit to Mr Alexander King.

The Justice assignit the fewint day of December to ansuer.

Dec. 7.—Ansvers to the Defences were lodged. The Justice continewis the pronouncing Interlocutour in the said mater *literatorie*.¹

Besieging Place of Ashintullie — Taking Prisoner, &c.

Nov. 24.—*SIR JAMES STEWART of Auchmadies,² *Sir James Stewart of Ballieachan, Patrik Butter, fear of Gormok,³ *James Stewart of Bodinschawis, *Robert Stewart of Facastell, *James Stewart of Force, David Donald of the Grange,⁴ *Alexander Robertfounne of Fascalie, *Alexander Stewart of Cullelony, Patrik Blair of Ardblair,⁵ William Chalmers of Drumloch,⁶ James Ramfay of Ardbikie,⁷ George Campbell of Crwnan,⁸ William Wod funtyme of Latounne,⁹ David Campbell of Eister Denheid,¹⁰ *John Falow, younger in Balbrogie,¹¹ Robert Alexander in Cowper,¹² Colene Falow in Grange,¹³ Patrik Campbell of Kethlik,¹⁴ John Sowter in Cowper-grange, James Blair in Brunstounne, Sir Walter Rollok, tutour of Duncrub, Henrie Durhame in Falow, Johne Pitcairnis at the Mylne of Kilour, *David Arnot of Incheok, *George Cwneiftoun of Ettradour, Laurence Narne of Alliefargie, Archibald Herring of Drimny, Archibald Campbell of Perfar.

¹ No further notices are entered in the Record; so it is likely the matter had been privately compromised. ² Those marked * did not 'compear.' ³ Plegio, Domino Drumloch. ⁴ Plegio, Colene Falow in Grange.

⁵ Plegio, Laur. Merfar of Mekillour. ⁶ Plegio, Pat. Butter of Gormok. ⁷ Plegio, W^m Wod of Banblane. ⁸ Plegio, Byfchop of Brechin. ⁹ Plegio, James Ramfay of Ardbikie.

¹⁰ Plegio, Byfchop of Brechin. ¹¹ Plegio, eodem. ¹² Plegio, Bifchop of Brechin. ¹³ Plegio, eodem. ¹⁴ Plegio, Colene Campbell of Landy.

Dilatit for Affageing of the Place of Affintullie, and taking of Andro Spalding of Affintullie; committit in the moneth of November, the yeir of God I^m.V^c.lxxxvij yeiris.

PERSEWAR, Mr Thomas Hammiltoun, aduocat.

The aduocat producit his Maiesteis Warrant, for continewatioun of the dyett to the xv of December nixtocum.—The Laird Arbokie and Williame Wod sumtyme of Latoun, now of Banblane, David Campbell of Denheid, Williame Chalmer of Drumlochy, Archibald Herring of Drimmy, offerit thame to Affyse; and disassentit to the continewatioun; quhairvpoun thay askit instrumentis. Johne Pitearne, att the Mylne of Innerkelour, askit instrumentis.—The famin day, Johnne Erll of Atholl, oft tymes callit as cautioner and fouirtie for Sir James Stewart of Auchmadeis, &c. to haif enterit and presented thame, &c. wes vnlawit for nocht entrie of the saidis Sir James, &c. for ilk ane of thame, in the pane of fyve hundreth merkis: Lykeas, the saidis persones principall, wer adjudgeit to be denunceit rebellis, and put to the horne, and all thair movabill guidis escheit, as fugitiues.

Adultery.

Nov. 25.—ALEXANDER HAY of Delgetie.

Mr Thomas Hammiltoun of Drumcairne, aduocat to our fouerane lord, producit his hienes Lettres, purchest at his instance, to tak fouertie of Alexander Hay of Delgetie, that he sould haif compeirit this day and place, and vnderlyne the law for the cryme of Adulterie, committed be him (with Barbara Forbes, his allegeit spous).

Compeirit Mr Johnne Russell, aduocat, *excusatorio nomine* for the Laird of Delgatie, and allegeit na proces (lay) aganis the said Alexander, becaus he is deidlie feik, nocht abill to travell, and comperis lyand within my Lord Sinclairis place in Ravinshuik; and offeris to verifie the famin lauchfullie.—Comperit Mr Williame Murray, minister of Dyfert, as Minister of the parochin, quhair the Laird of Delgatie lyes, and being solempnlie sworne, depones, vpone certane knowlege, that the said Alexander was deidlie feik, and could nocht travell.—Compeirit lykwayis, Alexander Cryftie, bailzie of Dyfert, ane of the witneffis vfeit, deponet that the Laird of Delgatie is lyand bedfast, hevelie disseit, and nocht habill to travell.—Compeirit lykwayis, William Craig of Craigfoun, and deponet that the said Alexander was lyand bedfast, and deidlie feik, as appeirit to him.

The aduocat desyrit that this dyet may be continewit to Tyfday, becaus the Minister and the witneffes hes nocht deponit constantlie of his feiknes; quhill that his Maiestie be aduerteist thair of, and direct Mediceneris to tak tryell thair of.

The Justice continewis this matter to the penult day of November instant; and ordanet the Laird of Delgetie to find new caution for his compeirance that day.

The famin day, compeirit Alexander Bonar of Balgirscho, and become pledge and fouirtie for Alex^r Hay of Delgetie, that he fall compeir befor my Lord Justice and his deputis, in the Tolbuthe of Edinburghe, the penult day of November instant, in the hour of cause, in cais he be habill to travell, and vnderly the law for the cryme of Adulterie, committit with Barbara Forbes, his allegeit spous ; vnder the panes contenit in the Actis of Parliament.

PRELOQUUTOIRIS for the pannel, Mr Johnne Russell, Mr Williame Oliphant.

Nov. 29.—Comperit the Aduocat, and alledgeit that the Laird of Delgatteis cautioner aucht to be vulawit, and him selff aucht to be denunceit to the horne, for his non entrie this day ; and the famin aucht nawyis be delayit, in respect of ony assoinzie¹ of seiknes ; becaus the mater being continewit to this day, to the effect his Maiestie mycht direct ane Doctor of Medicine to visseit the defender, and to try his present estait, and to report the famin to my Lord Justice ; I offer me to preif, be Mr Thomas Moriesoune, doctour of Medecine, quha, conforme to his Maiesteis command, hes visseit the Laird of Delgattie, that he mycht haif travellit and keipit this dyet without hasard of his lyffe ; quhais declaratioune, being present, I desyre my Lord to ressaue. To the quhilk it is answert, *excusatorio nomine*, as ofbefoir, that the Declaratioun of Doctor Moriesoun, in preiudice of the said Laird of Delgattie aucht nocht to be ressauit, for tua causlis : ffyrst, becaus it is *dictum unius testis*, quha, of the law, *neque probat civiliter neque criminaliter*, speciallic in sic a mater of grit consequens ; nixt, becaus of the law *testi non jurato non creditur* : And trew it is, that Doctor Moriesoune wes rather directit in presens of partie to this effect, nor yit sworne in presens of partie ; and quhatsumewir prewie direction hes bene gewin to him extra-judiciallic, the famin can nawyis preiudge the Laird of Delgattie : Nixt, gewand² that his depositions mycht be ressauit, quhilk is altogidder denyit, and that the famin mycht mak faith, it is certane that the famen, of law, *quod alleganti impedimentum danda est probatio et non contra* ; and trew it is, that the alledgance of the seiknes is proponit be Delgattie, quha, as he verifeit the famin vpoun Satterday last, be the Minister and twa witnesles, conforme to the Act of Parliament and ordour obseruit in this Judgement ; yit, as ofbefore, he offeris him to preif presentlie, the continewatioun of the said seiknes in the persoun of Delgattie, and that he is altogidder vnhabill to travell, without perrell of his lyffe ; and in respect thair of hes tane medicine, and is presently vnder medicine ; and this he offeris him to pruiß be the depositions of ane famous Doctor, viz. Doctor Medicine,³ and the Testimoniall of Archibald Mwdie, ypoticar, quha ministrat the said medicine.

¹ *Essoyne, essoigne*, Old Fr. An excuse for non-appearance in Court, &c., on oath that the party is sick, &c.

² *Esto*, allowing, or granting for the sake of argument.

³ An amusing mistake of the Clerk of Justiciary for 'Doctor Schomer.'

To the quhilk it is answerit be my Lord aduocat, that the fyrst alledgance is nocht relevant, becaus the Kingis Maiesteis directioun in this cause aucht nawyis to be repute the deid of ane priuat partie, bot the command of the maist fouerane Judge: Nixt, the testimony of the said Mr Thomas can nocht be rejectit, becaus he is allegeit *singularis*; becaus this is nocht ane mater of ordinar probatioun, quhilk mycht fall *sub sensu communi omnium hominum indifferenter*, bot may be only provin be Doctouris of Medicine, *quibus et periti in sua arte capiendum est*: Laft, the offer of the contrar Declaratioun can nawyis be respectit, becaus it is procureit be the defender, to eschew the tryall of ane haynous cryme; and the taking of medicine imports na feiknes. As to the said Mr Thomas aith, it could nocht be properlie tane, quhill now, that he is reddie to mak judiciall Report, conforme to his Maiesteis directioun; quhilk the persewar produceis and desyres to be red; craifand my Lord Justice answer thairto, and that his lordship will haif regard that the said Mr Thomas, in this cause, is *testis omni exceptione major*; being knawin to haif spent mony yeiris in the studie of his ordinar course of medicine, and to haif past the haill degreis thairof.

The said Warrant being red, the Aduocat took instrumentis thairupoun.

THE said Mr THOMAS MORIESOUNE, ^{s^r.}¹ doctor of medicine, being sworne, declarit, that on command of his Maiesteis Commissioun, he past vpon Mounday last to Ravintheuch, and betuix thre and four houris eftir none fand the Laird Delgattie lyand on his bed: He declarit his commissioun to him fra his Maieste, inquyrit the cause of his diseise, quhilk he declarit was ane indigestioun and cruditie of his stommok, with schottis² throw his body, quhilk he said was be excus and travell; to the quhilk the Doctour eikit,³ that intemperance helpitt itt: And forder declaris, that he fand him feik and desyrit him to tak medicine; and thinkis, he wald haif bene war⁴ of his trauell; and nochttheles, be his opinioun, he mycht haif travellit to Edinburghe to this dyett, without danger of his lyfe.

Mr MARTENE SCHOMER, Doctor of Medicine, being sworne, deponit, that the Lady Delgattie being heir in Edinburghe, crumstlie desyrit the deponer to pass to hir husband in Ravenstheuch, quhair sche affermit he wes deidlie feik: He tuik Ar^d Mwdie, ipoticar, with him, with sic remedeis as he thoct agreabill for the feiknes declarit be his wyffe: Thay come vponn the xxviij day of this instant to Ravintheuch, quhair thay fand the Laird of Delgattie, verry heavelie diseasit, tormentit with vehement panis in his stommok and in his melt,⁵ with ane grit squalling of his haill belly, that he mycht not sufir him to tuich his bellie, stommok, nor melt: Thairvponne, for remedie of his necessitie, instantlie he gart gif him ane cleister, and applyit sclyke, fomentationis to his melt, maid vnetioune of vleis,⁶ and left the poticar with him to minister sic medicines as ar necessar for him. And in end, declaris vponne his conscience, as for the present as he fand him, he mycht nocht travell to Edinburghe, ^{5e^r} he mycht not set vp in his bed, for dolour, nor mycht nocht cum to the flure: And declarit, that he cam fra the Laird of Delgattie this last nycht, att midnycht.

And forder, the procuratouris for the said Laird of Delgattie fend for Ar^d Mwdie, ipoticar to the doctor; quhilk thay desyrit to remane in process.

The Justice continewis this mater to Fryday the fyrst of December.—Alex^r Bonar of Balgirscho became surety for his appearance, ‘gif he be abill to travell.’

¹ Probably senior.

² Now termed shooting pains, or spasms.

³ Added, subjoined.

⁴ Worse.

⁵ The spleen.

⁶ Oils or unguents.

⁷ Yea.

Dec. 1.—The Justice continewis the mater to the third day of the nixt Justice-air of Abirdene, or soner, vpoun xv dayis wairning, eftir he be convaless; in respect of the said Laird of Delgateis diseasè. Alex^r Bonar of Balgirscho became pledge and fouertie.¹

Bearing and Clearing of Pistolets.

Dec. 9.—SIR JAMES DUNDAS of Arnestoun, knycht.

Dilatit for contravening of the Actis of Parliament, in bering and weiring of pistolettis.

PRELOCUTORIS for the pannell, Mr Johne Sharpe, Mr Williame Oliphant, Mr John Moncreif.

PERSEWAR, Mr Thomas Hammiltoun.

It is alledgeit be Sir James Dundas, that he can nocht be putt to the knowledge of ane Affyis for the cryme libellit, in respect of the limitation and exceptioun contentit in the Act of Parliament; be the quhilk it is promittit, that it fall be lesum to all men, in ganging, remaning and repairing to oistis, raidis and assembleis, to beir, weir and vse pistolettis: And trew it is, before the tyme lybellit, the said Sir James wes commandit be Williame Erle of Angus, being than Lieutenant, as he is yitt, to accompany him, att ane Justice Court, appointit to be hauldin att Peblis, vpoun the nynt and tent dayes of October: ffor obedience of the quhilk command, the said Sir James did na wrang to provyde him selff of armour, vpoun the said aucht day; the said Sir James, att that tyme, being domestik feruitour² and proper depender vpoun my Lord of Angus, lyke as he wes diuers 3eiris ofbefore: And this alledgeance, safar as concernis my Lord of Angus command gewin to him, and the haulding of the said Justice Court, is offerit to be verifeit presentlie, be my Lord of Angus awin declaratioun, quha is personallie present. The Advocat answaris, that the alledgeance aucht to be repellit, in respect alsweill of the place quhair the cryme is lybellit to be committit, to witt, in the hie way passand fra Nudrie to Kirklistounne, as in respect of the qualitic of the pannell nawayis duelland within the boundis of my Lord of Angus Leutenandrie; nathir can my Lord of Angus declaratioun be ressaunt in this cause, becaus his lordschip, in presens of my Lord Justice, hes raknit the said Sir James to be within degreis-defendand to his lordschip, baith in affinitie and consanguinitie: And his lordschip declaratioun *ex post facto*, in cais it mycht be ressaunt in this place, fra the quhilk the persewar altogidder disassentis, yit the famin can work nathing; becaus the Act of Parliament allowis allauerlie the

¹ See Feb. 15, 1600.

² This affords a striking illustration of the former definitions given of the word 'feruitour,' which by no means bears the modern interpretation of a menial or 'servant.' In this instance, a knight and baron, of considerable rank and power, is termed 'domestik feruitour;' and besides, the same person is described as being related to the Earl of Angus, 'baith in affinitie and consanguinitie.'

wering of pistolettis, in ganging to Raidis and Proclamatiounis, and to perfonnes chargeit be his hienes Lettres and authoritie.

Before the Judgeis Interlocutour, the said Sir James Dundas past fra his alledgeance, albeit the famin may be ane sufficient reafoun to exeme him fra all penaltie : And fyrst, that his Maiestie fall nocht tak the said Sir James to be ane contradictour to his hienes lawis ; and secundlie, att my Lord of Angus speciall desyre, be quhais command he addrest him selff to Peblis, haifing the saidis pistolettis ; and als, speciallie confydand in his Maiesteis benignancie, he referring him in his Maiesteis will for this challenge. Quhairvpoun the Kingis aduocatt tuk instrumentis.

Besieging the Place of Assintullie.

Dec. 15.—PATRIK BUTTER of Gormock, &c.¹

Dilatit of the Assageing of the Place of Assintullie, &c.

This case was continued to 16. 19. 20. and 21 December ; on which last diet, the Justice continued it farther to the xxij December.²

Fire-raising—Theft—Woughing and Slaying Horses and Cattle.

Dec. 21.—WILLIAM ROISE of Kilrawick, Huchonne Roise his sone (and apperand air,) David Roise of Holm, John Rois in Cantray, David Rois in Lyne, Alex^r Roise in Lenocho, Alex^r Rois alias Roy, Walter Rois in Kilmany and Johne Rois in Rymoir.

Dilatit for the tressonable Byrning of George Dunbaris hous in Alwne (Clwne ?) and thifteous steling fra him of his haill insyght, guidis and geir, worth twa thousand markis ; of hoching of and slaying of ten horse and threscoir of nolt, pertening to the said George Dunbar.

PERSEWAR.

Johne Dunbar of Meynes.

PRELOQUUTOUR for the pannell.

Mr Williame Oliphant.

Mr Williame Oliphant tuk instrumentis that the Laird of Moynes comperis to persew.—The pannell takis instrumentis of thair entrie, and protestit for releif of thair cautioneris ; and tuk instrumentis that na persoun comperit to persew, bot Johnne Dunbar of Moynes.

The famin (day) the said Johnne Dunbar in Meynes produceit ane Warrant, subscryuit be his Maiestie, vndaittit, ordanng the Justice and his deputis to desert the Lettres purchest be him selff and George Dunbar in Clwne and William Falconer his guid-sone, aganis ALLANE CAMROUN of Locheldy (Lochiel ?) and his complices. Quhilk Warrant, the Justice wald nocht admit ; and ordanit the cautionn for reporting of the Lettres dewlie execute and indorsat vpoun

¹ Vid. Nov. 24.

² No farther procedure appears on Record.

thame, to be vnlawit, for nocht reporting thairof vpoun the said Allane and his complices, samony as the saidis Lettres are nocht execute vpoun.

Thairefter, it wes alledgeit be the pannell, that na proces fould be gewin aganis thame, for ony cryme contenit in the Lettres, committit aganis the said George Dunbar and Williame Falconer; becaus thay compeir nocht, nather hes Johne Dunbar of Moynes ony interes to perfew; bot the cautione fand for perfuit of the saidis lettres, att the instance of the said George Dunbar (and) Williame Falconer, fould be vnlawit, for nocht perfuit thairof.—To the quhilk it wes anfuert be the said Johne Dunbar of Moynes, that he hes sufficient interes to perfew the haill crymis, feing the crymis wes done to him and vpoun his landis, and thay wer his tennentis; and he wes reddie to perfew for the haill crymes, and fwa the cautione could nocht be vnlawit.

THE Justice findis that the said John Dunbar could nocht perfew the pannell for ony cryme that wes done aganis George Dunbar and Williame Falconer, bot for the burning allanerlie: And ordanis the cautione to be vnlawit for nocht perfuit of the lettres, safar as the famin concernis the said George Dunbar and William Falconer.

Therefter, before pronunceing of the Dome, Dischargeit to vnlaw the cautione for nocht appeiring and perfute of the lettres, bot the Assyse only, and Ordanit the Warrant vnderwritin to be infert and registrat in the buikis of Adiornall, quhair of the tenour followis.

REX,

JUSTICE, Justice Clark and 3our deputis, We greit 3ow weill: Forsamekill as pe xxij day of December instant is assignit to Allane Camroune of Bothell (Lochell?) and certane vperis of his clau and complices, for pair comperance befor 3ow, to vnderlye our lawis for pe trefsonabill Fyre-raising in pe duelling hous of George Dunbar in Clwne, and in ane vther coitter hous pertening to pe said George: Putting of violent handis on Mariorie Dunbar, his spous, and Isobell Dunbar, spous to Williame Falconer; and for pe maisterfull reif of certane guidis pertening to pame; and for diuerse vperis crymes specifeit in pe criminall lettres raist pairvpoun. Nochtwithstanding, for certane caussis moving ws, it is our Will, and We command 3ow to desert pe said dyet, and desist fra all proceeding pairintill; dispensing with pe personall comperance of pe said Allane and his complices, as also with pe perfewaris and pair cautioneris for nocht reporting of pe criminall lettres dewlie execute and indorfat; And that 3e deleit furth of 3e buikis of our Adiornall the Act maid anent pe reporting of pe saidis Lettres; quhairthrow pe famin haif na effect nor executioun heirefter: Quhairanent thir presentis falbe vnto 3ow ane Warrant. Subferyuit with our hand, Att Halyrudehous, pe xxij day of December 1598.

(Sic subfcribitur) JAMES R.

[No Assisers appeared, in consequence of which thirty persons summoned, are ilkane of pame pairfoir unlawit, in pe pane of I^e merkis.]

The quhilk day Williame Rois of Kilrawik, &c. being enterit on pannell, as sunmond be vertew of our fouerane lordis lettres, purchest at the instance of Johne Dunbar of Moynes, George Dunbar in Clune, William Falconer in Leth-

inbar, to compeir this day and place, to haif vnderlyne the law, for cummyng with thair complices, to the nowmer of ij^c (200) men, brokkin men¹ and forneris,² all bodin in feir of weir,³ with bowis, dorlochis,⁴ twa handit swordis, steil-bonnetis, habershounes,⁵ lang hagbuttis⁶ and pistolettis, expresse prohibite to be borne, worne, vsat or schot with, be the actis of Parliament and Secreit Counsaile *respectiue*, vnder diuers panis contenit in the samyn; laitlie vpoune the aucht day of October instant, haifing confauit ane deidlie feid, rancour and malice aganis the saidis compleneris, come vnder sylence and cloude of nycht, be way of Brigancie⁷ and Hamefueken,⁸ to the said George Dunbar duelling hous in Clwne, pertening heritable to Johne Dunbar of Moynes; and thair, be thame selfis and thair said complices, of thair speciall causing, hounding, sending, direction, maintening, quarrelling, airt, pairt-taking, command, assistance and ratihabitounne,⁹ tressonable rasit fyre in the said George Dunbaris duelling hous in Clunne, and bigginges thair of: And nocht content thairwith, put violent handis in Mariorie Dunbar, spous to the said George, and in Isobell Dunbar, spous to the said William Falconer, tyrrit¹⁰ thair claithe of thame, and schot¹¹ thame moder-nakit¹² furth of thair said duelling hous, befor the samyn was brynt and distroyit: The said Isobell Dunbar, spous to the said W^m, being than lyand in grit dolour and distres of the birth of ane man-chyld, quhair of scho was delyuerit bot foure dayis ofbefoir; quhilk man-chyld, they but pitie or compassioun, kait furth of the said hous to the mydding:¹³ Lyke as thay, at that samyn tyme, thistefoullie stall, concealit, resset and away-tuk fra the said George Dunbar, furth of his said duelling house, his haill insyght-pleneiffing,¹⁴ guidis and geir, extending to the valour and quantitie of twa thousand markis; togidder with ten horsis and threfoir of nolt, and maist schamefullie and vnworthelie hocht¹⁵ and slew aughtene ky and oxin pertening to the said George Dunbar, as his awin propir guidis and geir: And swa, they and ilk ane of thame war airt and pairt of the said crymes: As at mair lenth is contenit in the Lettres direct thairvpoune:—Offerit thame selfis reddie to abyde the tryell of the law and of ane Assyes, for the saidis alleget crymes, dissasenting fra all continewationne: And in respect that na partie comperit to persue thame, except the said Johne Dun-

¹ *Broken men*, outlaws, separated from every clan by their crimes, and depending upon plunder for their subsistence. *Scatterlings* is a synonymous word in English, and which Dr Johnson terms 'an elegant word.'

² Men who, without homes, secured free quarters to themselves by violence, and were a dreadful and merciless scourge to the poor and unprotected tenants and labourers of the ground.

³ In warlike array.

⁴ Short swords or daggers.

⁵ Habergeons, (*awbyrchounes*) coats of mail, composed of plate or chain mail, without sleeves. *Grose, Jamieson.*

⁶ A large kind of musket.

⁷ Open and violent robbery. *Fr. briganderie.*

⁸ Assault and violence done to a person in his own house or home.

⁹ Confirmation, ratification. *Law Lat. Ratihabere, pro ratum habere.*

¹⁰ Tare, rent. *Fr. tirer.*

¹¹ Pushed them by force.

¹² Stark-naked.

¹³ Midden, dunghill.

¹⁴ Household furniture, &c. *spraichrie.*

¹⁵ Hamstrung.

bar of Moynes; nather yit was thair ane sufficient Assyis of thair rank summond to this day and place, to pas vpoune thair Assyis; bot as appeirit, of meir malice be the partie persewar, thay being maist innocent of the saidis crymes: And thairfoir, first, protestit for releiff of David Brodie of that Ilk, Patrik Dunbar of Couze, Johne Rois, sone to Angus Rois, burges of Narne, and Johne Rois, provest of Narne, cautioneris and fouerteis respectiue, summonit for thair entrie this day and place, to the effect foirsaid, be releiffit; quhilk was admittit: Lyke as also, that thay be nocht astrictit to fynd new cawtionne, for thair entrie gane, to vnderlye the law for the saidis crymes, seing thay haifing obeyit the charge of the saidis Lettres, and haifing cum sevin scoir of myles for tryell of thair innocencie of the saidis crymes; and the caus of delay of thair tryell proceeding fra the partie persewaris, quha nather comperit to persew, as said is, nor summond ane sufficient nowmer of Assyis, as said is: Lyke as, thay being presentlie content to abyde the tryell of ane Assyis of quhatsumevir personis at the bar. Quhilk protestationne the said Justice, for the caussis foirsaidis, admittit. Off the quhilkis, all and syndrie the premissis, thay askit notis (actis) and instrumentis.

Slaughter.

Dec. 29.—**JOHNE CREYCHTOUNE** of Crawfordtoun, William Creychtoun, brother to Mr Robert C. of Carco, James Creychtoun, son to John C. of Crawfordtoun, and Williame M^cGowne in the Maynis of Crawfordtoun.

Dilatit of airt and pairt of the slauchter of vmq^{le} Patrik Maxwell, callit of Dalquhorne.

PERSEWAR, Mr Alexander Maxwell.

The Justice continewis this mater to the morne.

Dec. 30.—Continued to the Air of ‘Drumfreis tertio Itineris, vel super premonitione xv dierum.’

Slaughter—Wearing and Shooting of Pistolets.

Dec. 29.—**JAMES CREYCHTOUNE**, in Tounheid, sone to vmq^{le} Williame Creychtoun, tutour of Sanquhar, and Johne Edzer of Inglis-toun.

Dilatit for airt and pairt of the Slauchter of vmq^{le} Patrik Maxuell of Dalquhorno; and for contravening of the Actis of Parliament, in bering, wering and schuting with pistulettis; committit in the moneth of . . . lasth ypast.—Mr Robert Creychtoun of Carco, and Williame Creychtoun in the Tounhead of Sanchar, fined ‘ij^c merkis,’ and ‘fyve hundreth merkis,’ for non appearance of James Creychtoun and Johne Edzer, ‘to haif vnderlyne the law’ for the said

crimes. Creychtoun and Edzer are adjudged to be denounced rebels, and ‘all their movabill guidis to be efcheit,’ &c.

Slaughter.

Jan. 2. 1598-9.—ROBERT TULLOCH of Tannachie, Thomas Tulloch, his sone, and James Barelay in Mekill Tarrie.

Dilatit of airt and pairt of the Slauchter of vmq^{le} Williame Dowglas, sone to Williame Dowglas of Erlifmylne.

PERSEWAR, W^m Dowglas of Erlifmyll.

PRELOQUITOUR, Mr Johne Scharp.

The pursuer produces the Letters duely executed. Comperit Mr Johne Scharp, *excusatorio nomine* for Patrik Dumber of Blarie, as fouertie for Robert Tulloch, &c. and alledgis, in respect of the notoriety of the storme, thay being vpoun their jurnay, thay can nocht compeir.

The Justice continewis to Furifday (Thursfday).

Jan. 4.—The pannell takis instrumentis of their entrie, and protestit for releif of their cautioneris.

Continued to the aire of ‘Elgyne and Forres tertio Itineris, vel super premonitione xv dierum.’¹

Slaughter.

Jan. 4.—WILLIAM WOD of Baublane, (sumtyme of Latoune.)

Dilatit for airt and pairt of the Slauchter of umq^{le} Robert Frazer, (Unicorn Purfuivant; committit in the moneth of October yeiris.)

The said Laird of Latoune produceit ane Warrant, subfcriuit be the King and his Counfall, quhairof the tennour followis.

REX,

JUSTICE, Justice Clark and your deputtis, We greit you weil: Forfamekill as our vperis lettres ar purchest att pe instance of Katherene Rynde, the relict, with pe bairnis, kyn and freindis of vmq^{le} Robert Frazer, Unicorn Purfevant, for calling of W^m Wod of Latoune befor you in your Tolbuith of Ed^r the fourt day of Januar instant, in pe hour of caus, to vnderlye pe law for alledgeit airt and pairt of the Slauchter of the said vmq^{le} Robert; quhilk slauchter, amang mony vperis, wes committit in the feild struckkin betuix our rycht traist consing George Erle of Huntlie and Archibald Erle of Argyle. And nochtwithstanding, for diuerse considerationis moving ws, We, in our lait Parliament haldin at Ed^r, the nyntene day of December, the 3eir of God I^mV^e fourfcoir sevintene 3eiris, haif Remittit and put in obliuione, all Slauchteris and crymes quhilkes war committit at pe said feild, or at any tyme preceding, sen pe first day of Majj, the 3eir of God I^mV^e fourfcoir tuelf 3eiris; swa that thay suld nawayis be callit in memorye be ws or ony of our subiectis, in ony tyme heirefter; putting pe samyn, with all actiounes, accusatiounes, pane, penaltie and puneishment following pairvpounne, in perpetuall obliuione: Quhairfoir, and in consideration of the premisses, it is oure wille, and we command you, that incontinent efter pe sycht heirof ye desert the said dyet; swa that the said Williame

¹ Vide Mar. 3. 1598. and Mar. 8. 1600.

Wod nor his cawtioner be nawyis trublit, vnlawit nor adiudgeit for his nocht entrie, the said fourt day of Januar instant, or ony vther day þairefter, befor 3ow, for þe caus foirsaid, contenit in þe said act; discharging 3ow and 3our deputtis of all proceeding pairintil and of 3our offices in þat pairt, be thir presentis. Subferyuit with our hand, Att Dalkeith, the ferd day of Januar, the 3eir of God Im.Vc.lxxxxvij 3eris.

(Sic subfcribitur) JAMES REX. ANGUS. VCHILTRIE. ELPHINSTOUNE. SECRETARIUS.

The samin day, comperit William Dunbar, Minister of Dyke, and produceit the Letter vnderwrittin,¹ testifeing the inhabilitie of Alexander Tulloch, quhy he may nocht compeir this day; and thairefter being sworne, he deponit, that Alex^r Tulloch wes vnliabill to travell without perrell of his lyffe; quhilk letter was subferyuit be the Moderatour of the Priibeterie, viz. James Dundas, Minister att Alve, and . . . Balfour, Minister at Narne.

THE Justice admittis the excuse, and ordanit the mater continew for the said Alex^r Tulloch to the thrid day of the air of the Shereffdome of Elgyne and Forres, or soner vponne fyftene dayis wairning. The said Robert Tulloch askit instrumentis, that the Guidman of Erlisimyll persw him for airt and pairt of the Slauchter of the said vmq^{le} Williame, for the resfatt, and nocht for the actual committing thair of.

Jan. 5.—The Justice nocht being throughlie avysit, continewit it, to gif ansuer quhill this day; and ordanit the pannel to fynd cautionne for his entrie to the day and place, in the hour of caus, to vnderlye the law for the said cryme; quha fund . . . Wod of Balbegen, cawtioner and souertie to the effect foirsaid, be vertew of our soverane lordis lettres, purchest at the instance of Katherine Rynd, the relict, Joⁿ Frazer, eldest sone, with the remanent faderles bairnis, kyn and freindis of the said vmq^{le} Robert: The quhilk day, the said Joⁿ Frazer comperand as persewar, and the said Williame Wod as defendar, quha protestit for releif of his cawtioner; the said Justice depute admittit his Majesteis Precept, and Ordanit the dyet to desert. Quhairvponne the said W^m Wod askit actis and instrumentis.

Wearing and Shooting of Pistolets — Slaughter, &c.

Jan. 26.—JOHNE ARNOT of Wodmylne.

Dilatit for contravening of the Actis of Parliament, in bering, wering and schuting with pistuletis vponne the fleildis and landis of Wodmylne, at vmq^{le} Johne Murray, feruitour to Patrik Commendator of Lundores.²

The samin day, the said Johnne Arnot being enterit on pannel, declairit with ane sorrowful hairt for his offence committit aganis his Maiestie, and offence done to my Lord of Lundoris, nocht to contend aganis thame, or in ony foirt to irritat thame, quhome he is fory to haif offendit sa helie. He comperit in Judge-

¹ This Letter does not appear in the Record.

² Continued from 23. and 24. Jan.

ment, nocht to mak ony defence, in his offence committit aganis his Maiestie, be vmbefetting and tranfgreffing of his lawis, in bering and wering of pistolettis, bot simplie and humbly to cum in his Maiesteis clemencie and will; quhilk he offerit in all pointis to fulfil: And nocht only to obey his Maiestie thairanent, bot lykewyis to vnderly his Maiesteis will, concerning quhatsumewir satisfactioun to be maid in all foirt of honoure and humbly obedience to my Lord of Lunderis, and Laird of Tillybairdin, as maister and cheif to vmq^{le} Johne Murray; and in geir and vthirwyis to Charles Murray and his freindis, for Assythment of the Slauchter of the said vmq^{le} Johne; quhairin absolutlie I put my selff in his Maiesteis clemencie and will.

Quhairvpoun, the said Mr Thomas Hammilton askit instrumentis.

The famin day, Sir Patrick Hepburne of Lufnes, knycht, and Johne Touris of Inverleith, become pledgis and souirteis, coniunctlie and severallie, for Johne Arnot Younger of Wodmyll, that he fall remane in waird within the tolbuith of Ed^r, and fall nocht depart furth thair of quhill his Maiestie declaris his will, in the quhilk he come, for bering and wering of Pistolettis; vnder the pane of Fyve thousand merkis.

Umbesetting the Highway — Masterful Theft, &c.

Jan. 30.—GEORGE HOME in Aytoune.

Dilatit of vmbefetting of Williame Murray, burges of Ed^r, vpoune Coldinghame-mwre, and maisterfullie Steilling fra him of ane thousand threfoir sevin pundis iijf. iiijd. in gold and siluer.

Comperit Mr David Guthrie, as preloquitour for W^m Murray, quha hes speciall interes in this mater; and desyrit this mater may continew, quhill the morne, that he may cum sufficientlie instructit with probatiounes, that (he) can nocht haif for the present.—The pannell desyrit that he mycht be putt to the knowledge of ane Assyse of countrey men.

Jan. 31.—Comperit W^m Murray, merchand burges of Ed^r, and produceit ane Warrant, subferyuit be the Kingis Maiestie; quhairof the tennour followis.

REX,

JUSTICE CLARK and 3our deputtis, We greit 3ow weill. It is our will, and We command 3ow, that vpoune pe sycht heirof, to stay and continew all proceeding aganis George Home, for his allegeit reise fra W^m Murray, or putting of him to pe knowledge of an Assyis pairfoir, till 3e refflaue our forder Warrant pairanent; keping him in fair waird in pe meyntyme. As 3e will answere to ws; keping his present for 3our Warrant. Subferyuit with our hand, At Ed^r, pe penult day of Januar, 1598.

(Sic subferibitur)

JAMES REX.

Forging and uttering base coin — Treason.

Feb. 9.—ELSPETH SKIRLING, spous to Johne Hepburne induellare in

Sanct Marie Wynd, Marioune Hepburne hir dochter, Mariorie Fyn, dochter to Johnne Fyn in Bruntiland, and Helene Bruce, spous to Raff Wallace skynner, burges of Edinburgh.¹

Dilatit of the tressonabill Counterfitting, fforgeing and Prenting of fals and adulterat testanis with the croce vpoun thame; and Outputting of the samyn amangis our Souerane lordis liegis.

PERSEWAR, Mr Robert Lyntoune, substitute for our souerane lordis Aduocat.

ASSISA.

Johne Mosman goldfmyth in Edr,	Hew Lyndefay goldfmyth,	James Trotter (fmyth),
Johne Cwninghame goldsmith thair,	Thomas Smyth merchand,	James Crawford goldfmyth,
Williame Stalker goldfmyth thair,	Johne Hog in the Potter-raw,	Robert Vaus tailzeour,
Abrahame Hammiltoune fmyth,	Robert Thomfoune goldfmyth,	Dauid Heriot, goldfmyth,
Robert Cokkie goldfmyth thair,	Williame Harper merchand,	Robert Schaw stabler.

The quhilk day Elspett Skirling, &c. being enterit on pannell, dilatit and accusit, for airt, pairt, red and counfall of the tressonabill fforgeing, falscyfeing and prenting in calmis, maid of trie,² fillit vp with calk,³ of fals adulterat money, sic as Scottis testanis with the croce, to the similitude and liknes of our souerane lordis trew money; quhilk thay, in the monethis of August and September lastbypast, and Februar instant, tressonablie fforgeit, counterfit and prentit within the duelling houffis *respectiue* of the said Elspett Skirling and Rauff Wallace, in Sanct Mary Wynd, and tressonablie outit⁴ the samin amangis our souerane lordis liegis in Bruntiland, Edinburgh and Potter-raw: Quhilk craft of the falscyfeing of the said money, the saidis Marioune Hepburne and Helene Bruce lernit be the instructionne of Hew Bruntoun Inglifman, quha vfit and praktesit the samin in the saidis houffis, att Fasternis-ewin lastbypast: Lykeas, thay, att diuers and findry vtheris tymis, treasonablie fforgeit, prentit and Coinzeit ane number of the saidis fals testanis, quhilk wes outit be the said Mariory; commit-tand thairby oppin Treassoun:—Wer putt to the knowlege of the Assyise aboue writtin; in quhais prefens the saidis personnes, being accusit be dittay, of the crymes aboue writtin:

VERDICT. Eftir chesing, fwering and admitting of the quhilk Assyis, and ac-cusatioun foirfaidis, the saidis personnes of Assyis past all furth of Court to ane loft in the Tolbuith, quhair thay chuse Williame Harper Chancillor of the Assyis, and reasonit and votit vpoun the pointes thairof, and being resolut thairwith, re-enterit agane in Court, quhair thay, be the mouth of the said Chancillare, fand, pronounceit and declarit the said Elspett Skirling, Marioun Hepburne and Helene Bruce, to be culpable, ffylit and convict of the saidis crymes; and the said Marjory Fyn, to be acquit and innocent thairof.

SENTENCE. For the quhilk caus, the Justice-depute, be the mouth of Wil-

¹ See the Case of Rauff Wallace, Feb. 24, 1598-9. ² Wooden moulds. ³ Chalk, Lat. *calx*.
⁴ Vended, uttered, put out.

liame Blak dempftar, ordenit the saidis Elspet Skirling, Marioun Hepburne and Helene Bruce, to be tane to the Castellhill of Edinburgh, and thair fyrst to be wirreit at ane staik, and thaireftir to be brunt in assis; and all thair movabill guidis to be escheit and inbrocht to our souerane lordis vsê, as culpabill of the saidis crymes.

[*Mr Robert Murray, Justice-Depute.*]

Murder.

Feb. 13.—ALEXANDER SPENS, wobster (weaver) in Cruikstoun.

Dilatit for airt and pairt of the crewall Murthour of vmq^{le} Johne Donald, Wobster in Cruikstoun.

PERSEWARIS, Christian Donald and Marioun Donald, as sisteris.

VERDICT. The Assyis, by the mouth of thair chancellor Williame Hoppriggill in Clentis, ssaund ‘ the said Alexander to be ffylit, culpabill and convict of the crewall Murthour and slauchter of the said vmq^{le} Johne Donald, wobster in Cruikstoun; committit in the moneth of August lastbypast, vnder fylence and cloud of nycht, vpoun the landis of Cruikstoun.’

SENTENCE. The Justice-depute, be the mouth of Williame Blak dempftar, Ordanit the said Alexander Spens to be tane to the Castlehill of Edinburghe; and thair his heid to be striken fra his body; and all his movabill guidis to be escheit, &c.

Slaughter.

Feb. 20.—ROBERT STEWART, brother german to Patrik Erll of Orknay and Sir Robert Creychtounne of Cluny, knycht.

The quhilk day comperit Mr Thomas Wilfoune aduocat, and produceit our souerane lordis lettres, dewlie execute and indorfat, purchest be George Meldrum apperand of Haltoun, Robert, Williame and Meldrum as sonis, with the kyne and freindis of vmq^{le} Mr Williame Meldrum of Montcoffer; for chargeing of Thomas Lewingstoun of Baldone, as cautioner for Robert Stewart, Brother-german to Patrik Erll of Orknay; and Johnne Creychtounne of Innernytie, as cautioner for Sir Robert Creychtounne of Cluny, knycht, to haif enterit and presentit thame this day and place, to haif vnderlyne the law for airt and pairt of the Slauchter of the said vmq^{le} Mr Williame Meldrum; and protestit that Alexander Lord Spynie, and David Lyndsay of Quarrelhill, cautioner for reporting and perfuit of the saidis lettres, be relewit. Quhilk wes admittit: quhairvpoun he askit instrumentis.

The samin day comperit Mr James Donaldfoune aduocat, and produceit his hienes Precept; quhair of the tennour followis.

REX,

JUSTICE, Justice Clark and 3our deputis, We greit 3ow weill. Forfamekill as our vperis lettres ar purchest att pe instance of pe bairnis, kyn and freindis of vmq^{le} Mr Williame Meldrum of Montcoffer, for chargeing of Jolme Creychtoun of Inuernytie, as cautioner and fourerie for Sir Robert Creychtoun of Cluny, kny^t, and Thomas Lewingftoun of Baldone, as cautioner and fourtie for Robert Stewart, broper-german to our rycht traift coufing, Patrik Erll of Orknay, to entir and present pame before 3ow in our Tolbuith of Edinburghe, the tuentie day of Februar instant, in pe hour of caus, to vnderly our lawis for airt and pairt of pe Slauchter of pe said vmq^{le} Mr Williame Meldrum. For keping of pe quhilk dyet, as We ar credible informit, bayth the parteis intendis to mak grit convocatioun of pair freindis, and vperis our liegis; quhairvpoun grit inconvenient may ensue, to pe disquyeting of our peciabil subiectis and present estait; quhilk We haif thocht guid to prevent, be pe delay of pe persuit of pe said mater on the said day: Quhairfore, and for diuers vperis reasonabill causis and considerationis moving ws, it is our will, and We command 3ow, that incontinent, eftir the sycht heirof, 3e desert the said dyett, swa that the saidis perfonis, nor pair cautioneris, be nawyis callit, adiudgeit nor vnlawit for pair non comperance att pe said day, naper 3it the cautioner for reporting and persuit of pe saidis lettres be vnlawit, for nocht production pair of: Dischargeing 3ow of all proceeding aganis the saidis perfonis and pair cautioneris, on pe said day, of 3our offices in pat pairt; nochtwithstanding of pair nocht comperance and entrie; with the quhilk We dispens be pir presentis. Subferyuit with our hand, At Haliruidhous, the xx day of Februar, 1598.

(Sic subscribitur) JAMES R. W. ELPHINSTOUN. SECRETARIUS.

Quhilk Precept, the Justice admittit. Quhairvpoune the said Mr James Donaldsounne askit actis and instrumentis.

[*Mr Williame Hairt, Justice-Depute.*]

Forging and uttering base coin — Treason.

Feb. 24.—**RAUFF WALLACE** skynmer, burges of Edinburghe.¹

Dilatit for airt and pairt of the tressonabill fforgeing and prenting of ffals and adulterat money, fik as fals Scottis testans and Inglis testanis.

PERSEWAR, Mr Robert Lyntoune aduocat-depute.

The Justice produceit the Warrand vnderwrittin, direct to him be his Maies-
tie; quhair of the tennour followis.

REX,

JUSTICE Clark, aduocat and 3our deputtis, We greit 3ow weill: It is oure will, and We command 3ow, that incontinent, eftir pe sycht heirof, that 3e put Ralff Wallace, presentlie in waird, and dilatit of ffals cunzie, to pe knawledge of ane Assyis; and being convict, that 3e sic him pwneist, according to his demereitis; as 3e will ansuer to ws pairanent. Subferyuit with our hand, Att Halirude-
hous, the xxij day of Februar, 1598.

(Sic subscribitur)

JAMES REX.

The Aduocat produceit the Dittay, eftir chesing, swering of the Assyse, togid-
der with the Depositionis of Rauff Wallace and his spous, and Marioune Hep-
burne for verifeing of the Dittay.

¹ See the Case of Elspèth Skirling, &c. Feb. 9, 1598-9.

ASSISA.

Hew Lyndefay goldfmyth,	Thomas Mulliegan merchand,	James Trotter fmyth,
Archebald Somerwell merchand,	Johne Giffert merchand,	Robert Vaus in St Marie Wynde,
Robert Thomfoune goldfmyth,	Johne Blak maltman,	Johne Coninghame goldfmyth,
Robert Nicolfoune merchand,	David Palmer goldfmyth,	Jo. Young tailzeour in the Cannogait,
Thomas Huchefoune sword-flipper,	Johne Chalmeris merchand,	Peter Spens dag-maker thair.

The said Rauff denyit the hail Dittay and his Depositionis; and declarit, that quhatewir he confest, it wes for tortour.—The Aduocat protestis for Wilfull error, in cais thay acquit, in respect of his Confessioun.—The said Rauff produceit ane instrument of his declaratioun of innocencie, and that he deponit and confest all thingis be exquisite tortour.

VERDICT. The Assyse being convenit soliter allane, chose Johne Cwninghame chancillar, and past to reasoning vpoun the pointis of the said Dittay; and haifing votit and resoluit thairwith, callit the Justice to Judgement, quhair thay, be the mouth of the said Chancillar, fand, pronunceit and declarit the said Rauff to be Cleane and acquit of airt, pairt, red and counfall of the tressonabill Counterfitting, fforgeing, ffalceifeing and Prenting of fals and adulterat money, sic as fals Scotis testanis and Inglis testanis; quhilkis wer tressonablie (and) fallie counterfittet, forgeit and prentit, be Hew Bruntoune Inglisman, quha, in the monethis of Januar and Februar, in the 3^{er} of God I^m.V^c.lxxxvij yeiris, before the ffeist of Fasternis ewin, caist the famin within the said Rauffis duelling hous in Sanct Marie Wynd, the said Rauff being present thairat: Lykeas he, eftir casting of the famin, treasonablie conceit the tressonabill prenting and forgeing thairof, and outing of the famin, be the said Hew Bruntoune and v^mq^{le} Helene Bruce, his (Rauff's) spous.—ITEM, fand and pronunceit him to be ffylit and Convict, fforfamekill as he, knawing, that about Fasternis-ewin bygane ane yeir, v^mq^{le} Helene Bruce his spous was tane and apprehendit for the tressonabill outing of fals Inglis testanis, coinzeit be the said Hew Bruntoune Inglisman, within hir duelling hous; he, the nycht of the apprehending of hir, vnderstanding that the said Hew wes the cause of his apprehensioun, for outing of the said fals coinzie, tuik and apprehendit him, and nochtwithstanding thairof, he treasonablie patt him away, and wald nocht present him to Justice, he being maist giltie of the said treasonabill cryme; and thairby, he committit maist oppin and mannifest Treafoune.

The whole persons of Assyis find Caution, ' that thay fall entir thair personis in waird, within the Tolbuith of Edinburghe, vpoun Tyisday nixtoecum, before nyne houris, ilk persoun vnder the pane of Fyve hundreth pundis; except Johnne Giffert, James Trotter, Robert Nicolfoune and Johnne Blak, for ilk ane of thame, vnder the pane of Fyve hundreth merkis.

(Mar. 2.)—Rauff Wallace being presented on pannel, to haif hard Dome pro-

nunceit aganis him, as he that wes convict of the taking of Hew Bruntoune, Inglifman, and latting of him to libertie, conforme to the convictionne, the said Rauff declarit, that he wald cum in his Maieftis will, for that thing quhair of he was convict ; and proteftit, that na wrang fould be down to him, feing, quhen he tuik the said Hew, he offerit him to Alexander Perfoun, Baillie, and thair-eftir he pafte and focht the Bailleis of the Cannogait, quhom he could nocht gett ; and or¹ he returnit, the perfonis quhom-with he wes left, paffe him away.

RAUFF WALLACE DOME.

(Mar. 3.)—The Justice-deput produceit ane Warrant, direct fra his Maieftie to him, to that effect ; quhair of the tennour followis.

REX,

JUSTICE, Justice-clark and your deputis, We greit you weil. Forfamekill as Rauff Wallace, fkykker in Edinburgh, being laithie accufte, and put to the knowledge of ane Affyse, for certane treffonabill crymes of fals cuingie, prentit in his hous, for the quhilk his wyffe wes laithie execute, the said Rauff is convict be the said Affyis of the treffonabill taking and away-putting of Hew Bruntoune, Inglifman, forger and prenter of the said fals cunze, within the said Rauffis hous, knowing him gyltie pair of, at the tyme quhen the said Rauffis wyffe wes takyn in Leyth, ane zeir fyne or pair-by, for the outputting pair of ; and for the nocht presenting of the said fals cunzeour befor our Justice, to haif bene pwnest for his offence ; for the quhilk, the said Rauff come in our will : And We, being perfytelie informit, that the said Rauffis wyffe declarit vpoun hir conscience befor hir death, diuers tymes, befor the prenting of the said fals cuingie, and that he pat the said fals cunzeour away, for hyding and feir of detecting of his and his wyffes gyltines ; quhairbye he is worthie of extreme pwnement. Thairfor it is oure will, and We command you, that ye hald Court, and gif and pronounce ye lyke dome aganis him, as was gevin aganis his vmq^{le} spous ; to be takyn furth to ane staik, and wirreit, quhill he be deid, and his bodie brunt in affes, quhill he be deid,¹ in exampill of vperis : And this on-nawis ye leve vndone : As ye will anfuer to us vpoun your obedience ; for the quhilk this presentis falte to you ane warrant. Subfcriuit with our hand, Att Halyrudhous, the thrid day of Marche, 1598.

(Sic subfcribitur)

JAMES REX.

According to the quhilk Warrant, the said Justice-depute, be the mouth of Williame Blak, dempster of the said Court, decernit and ordanit the said Rauff Wallace to be tane to the Castell-hill of Edinburgh, and thair to be wirreit at ane staik quhill he be deid ; and thairafter his bodie to be brunt in affes ; and all his landis, heretage, and his movabill guidis, to be foirfalt and efcheit, &c. as convict of the treffonabill taking and apprehending of the said Hew Bruntoune, Inglifman, quha cunzeit fals cuingie within the said Rauffis duelling-hous ; and nocht presenting him to Justice, conforme to the Act of convictionne.

Wilful Error on Assise.

Feb. 27.—THOMAS MILLIGAN, merchand-burges of Edinburgh, and fourteen others.

Dilatit, for airt and pairt, of the manifest and Wilfull Errour committit be

¹ Before, ere.

² These four words are evidently a clerical repetition.

thame, being admittit vpoun the Affyis of Rauff Wallace, fkyinner, &c. and Acquitting him of the fyrst point of the Dittay.—Continued to Mar. 2.

Mar. 2.—The case again continued to Mar. 9.

(Mar. 9.)—The Justice defertis the dyet, in respect that the Thesaurer and the Aduocat, being oft tymes callit to persew, comperit nocht; quhairvpoun the persounes aboue writtin comperand, askit instrumentis.

Slaughter.

Mar. 3.—JAMES BARCLAY, in Mekill Tary.

Dilatit for airt and pairt of the slauchter of vmq^{le} Williame Dowglas, sone to Williame Dowglas of Erlismylne.¹

Comperit Mr James Dundas, chanter of Murray, and Minister of Aloa, and produceit the testimoniall.—The pannel takis instrumentis of his offer to ane Affyse; and protestis, that he be nocht trublit in tyme cuning.—Only seven Affisers appear, who, in like manner, protest, ‘that thay be nocht trublit in tyme cuning vpoun this Affyse; quhilk wes admittit.’—Testimonial subseryuit be Mr Johnne Stratoun, Minister att Raffort, direct fra the Ministeris of the Presbiterie of Forres, of the dait, att the Kirk of Forres, the xv of Februar, 1598, testifeing that thay had sene the said Alexander (Tulloch, sone and apperand air to Robert Tulloch of Tannoquheis), and that he wes vnhabill to travell; quhilk exeuse maid be the Minister of Aloes, togidder with the Testimoniall, the Justice admittit.—Continued to the thryd day of the nixt Justice-air of Elgyn and Forres, or soner, &c. on xv days wairning.

Slaughter.

Mar. 16.—PATRIK CAMPBELL of Kethik, Andro Sym, his seruand, Williame Spalding, in Kethik, and John Drummond of Coquhalzie, and ffive others.

Dilatit for airt and pairt of the slauchter of vmq^{le} Williame Hay, sone to Williame Hay of Gourdie;² (committit vpoun the secund day of Februare lastby-past, vponne set purpois, prouisiounne, and foirthocht felonie).

PERSEWARIS, Andro Hay, apperand of Gourdy, Laurence, Robert, and Patrik Hay, as breyder, (brothers), Johnne Stewart, appeirand of Airtillie, Johnne Halyday, aduocat.

The cautioners for Campbell, Sym, and Spalding, who did not appear, are ‘americiat in the pane of ffyve hundreth merkis’ for Campbell; and for each of the others, ‘ane hundreth merkis.’ The principal to be denounced rebels, &c.

The Justice continued this case ‘to the thrid day of the nixt Justice-aire of Perth, or soner, vpone fyftene dayis wairning.’

¹ See Jan. 4, 1598-9.

² See Mar. 20, 1598-9.

[*Mr Williame Hart and Mr Robert Murray, Justices-Deputes.*]

Theft.

Mar. 17.—ROBERT QUIHIPPO, indueller in Edinburgh.

Delaitit for certane crymes of Thift.

PERSEWAR, Mr Thomas Hammiltoun of Drumcaine, aduocat.

PRELOQUUTOURIS for the pannell, Mr Johnne Russell, Mr Thomas Craig, Cornelius Tennent,

Williame Home, brother to Sir George, The Guidman of North Beruik, Mr Samuell Home.

The Aduocat produceit the Warrant, direct fra his Maiestie, Ordaining him to infist in the perfute ; as also ane Warrant to the Justice, to proceed and minister Justice in the said mater, togidder with the Dittay.

It is allegit, that Mr Williame Hairt, as Justice, can nocht be Judge in this mater ; becaus his wyfe, callit Margaret Carnecors, and the Guidman of Gallowfcheillis, ar ferdis of kyn, viz. thair grandsyr is ar tua brether : Quhilk rekning he offeris him to verifie instantlie, be gentillmen and vtheris witneffis vnsuspect ; in respect the Judge declairis he knawis nocht the rekning : Quhilk Guidman of Gallowfcheillis is partie in this caus, be this qualificatione, viz. he purchest the Warrant fra his Maiestie, to tak the defender ; he assistit the Bailleis in taking of him ; he feit the officer to summond the Assyse ; and hes gevin the Aduocat informatione ; and is vpgever of the Dittay.—The Aduocat answeris, the alledgeance aucht to be repellit, becaus thair is na vther partie or persouer heir bot him self, as Aduocat for his lienes entris ; nather can the Guidman of Gallowfcheillis haif ony entreis, in perfute of this Dittay : flarder, repeatit the decisoun gevin in the action persewit be the aduocat aganis the Laird of Delgetie, in the lyk caise ; and the Interlocutour alreddie pronounceit vpon this alledgeance.

The Justice repellis the alledgeance, in respect the Aduocat is only persouer ; as also, that Mr Robert Murray is also Judge, aganis quhome thair is na declinatour.—Quhairvpoun the defender askit instrumentis, and protestit for remeid of law.

It is allegit be the defender, that he can nocht be put to ane Assyse, in respect that he (is) nocht deprehendit in a mater of Treffoun, nor *in flagranti crimine* ; and thairfor, sould haif bene summond vpon a fyftene dayis wairning.—It is answerit be the Aduocat, the alledgeance aucht to be repellit, in respect of the crymes set down in the Dittay, quhilkis, in Thift allanerlie, may be tryit sumnerlie without ony delay, according to the practik ; and the pannell is brocht to the bar out of the Kingis waird.

The Justice repellis, in respect the Dittay is only for thift ; quhairvpoun the Aduocat askit instrumentis.

The defender, of his awin consent, desyris Tyfday nixtocum, to the effect that

he may caufe the parteis contenit in the Dittay compeir, and cleir the Dittay.—The aduocat takis instrumentis of the pannellis defyre, quhairby he efchewis preſent tryell, and craves proces.

The Juſtice ordanis proces.—The defender thaireftir defyrit, that ſeing my Lord Aduocat is nocht obleift to fueir ony Dittay, that thairfoir it may be knawin to the Juſtice befor the electioun of the Inqueiſt, gif ony partie vpone ony of the articles contenit in the Dittay, will fueir the ſamin to be of veritie.—It is anſwerit be the Aduocat, the alledgeance meritis na anſwer.

Follows the ASSISE, and Objections to Assisers.

The aduocat takis instrumentis, that *David Seytoun* declairis, that thair is feid ſtanding betuix him and the pannell.

It is allegit, that *Alexander Dikſoun in Edgearn* can nocht paſs vpone the Affyſe; becaus it is of veritie, that he was in companie with the Laird of Samelſtoun, vpone the grund betuix Kidlaw and Newtoun mylne, at the committing of the ſlauchter of vmq^{le} William Qulippo, the defenderis brother, quha was ſlane be the Laird of Samelſtoun; for the quhilk the defender beiris feid aganis the ſaid Alexander.—The Aduocat anſweris, that the allegeance aucht to be repellit, vnles the pannell wald allege, that the Affyfour was airt and pairt of the ſaid ſlauchter for his hund vpoun the grund: He nocht geving aſſiſtance to Samelſtoun in the fact, can work nathing aganis him; nather the pannellis beiring of feid aganis the aſſyfour, vnles thair was ane juſt caus of feid gevin be the aſſyfour.—To the quhilk it is anſwerit, that gif the ſaid Alexander was to be accuſet criminallie vpone his lyfe at the ſame defenderis inſtance, as being vpone the grund the tyme of the committing of the ſaid ſlauchter, and ſua being airt and pairt thairof, na Affyſe could clange him; and confequentlie, he can nawayis be ſufferit to paſs vpone this Affyſe.—The Aduocat aſkit instrumentis, that *Alexander Dikſon* being ſwoirne, declairis that he ſaw nevir the defenderis brother.—*Alexander Dikſoun in Edgearn*, being ſwoirne, deponis, that the day of the committing of the ſlauchter of this defenderis brother, thair being ane hunting apointit betuix the Laird of Sammelſton, elder, and the Laird of Colſtoun, his maifter, thay met; and the ſaid Patrik Hammiltoun, now of Sammelſtoun, haifing huntit his hault, and followit on horſbak, the reſt being on fute, except the Lairdis of Colſtoun, and Auld Sammelſtoun, and the ſaid Patrik Hamilton following his hault, forgadderit with the deponeris brother, and hurt him; and thaireftir came bak to the hunteris, and ſchew that he had allanerlie hurt him, and ſaw na forder; the ſaid Patrik and the deponeris brother being a myle frome thame.

The pannell allegit, that *Thomas Woid in Grange* can nocht paſs vpone this Affyſe; becaus thair is blude betuix thame.—The ſaid Thomas confeſſit the alledgeance to be trew.

It is allegit aganis *The Laird of Rochlaw*, that he can nocht paſs vpone this Affyſe; becaus the Laird of Rochlawis wyfe is thridis of kyn to the Laird of Spottifwoid; quhilk Laird of Spottifwoid, with the kyn and freindis, ſtandis vnder deidlie feid with the defender, for the ſlauchter of the ſaid Laird of Spottifwoidis brother.

It is allegit, that *Archebauld Geddes, younger*, burges of Edinburgh, that thair was bluid betuix him and the defender.

It is allegit aganis *James Lanſoun* and *Johne Reidpeth*, that thair is deidlie feid ſtanding betuix thame, and the defender vnreconceillit.—It is confeſt be the ſaid James Lanſoun and John Reidpeth, that thai beir the defender at evil will.

It is allegit aganis *George Rutherfurd*, that he is the Laird of Sesfuirdis man, quha is partaker of the Laird of Spottifwoidis feid.

The Aduocat takis instrumentis, that the pannell, out of his awin mouth, objectis aganis *Mr James Home*, fen being ane vnfreind to Hardeis, as pairtaker with him in his thift.

It is allegit aganis *Patrik Hoppringill*, that he can nawayis be vpone this Affyse; becaus thair is deidlie feid, standing as yet vnreconfeillit, betuix Williame Hoppringill, his brother sone, and the excipient, quha come and perfewit him for his lyfe, at the house of Blindley.—It is anfuwerit be the Aduocat, that the allegiance is nocht relevant, becaus it is nevir allegit, that Patrik Hoppringill is pairtaker of the feid, or that his brother-sone is at feid with the pannell, for his awin caufe: And as to his brotheris sones affifting of the Bailleis in his taking, that was lauchfull, and can impoirt na feid; fforder, the alledgeance of kyn with the Guidman of Gallowfcheillis is generall.—The Aduocat takis instrumentis.

The pannell takis instrumentis, befor the reiding of the Dittay, that thair is na perfewer comperis to fweir the Dittay.—The Aduocat takis instrumentis, that he offeris to verifie the Dittay, and to caufe the Guidman of Gallowfcheillis fweir the famin to the Affyse: In respect quhair of, and of the notorietie of the pointis of the Dittay, in cais that thai chainge, protestis for Wilfull Errorr aganis the Affyse.

The Aduocat protestis, that the allegiances maid be the defender may be minuitit, to the effect that it may be schawin to the Kingis Maiestie, quhidder this Judgement be lauchfullie vsed or abuset.

For verificatioun of the Dittay, the Aduocat producet ane Missaue Lettre, direct be Sir Williame Seytoun to the Laird of Traquair.

THE quhilk day, Robert Quhippo, burges of Edinburghe, being enterit on pannell, perfewit and accuset be Mr Thomas Hammiltoun of Drumcairne, aduocat, of the crymes eftir specifet; that is to say:

THE DITTAY against *Robert Quhippo*.

(1.) For airt and pairt of the thifteous Steilling, conceilling, refetting and away-taking of ane blak meir and ane broun horse, pertening to Baldie Watt in Adinstoun, furth of the landis thair of; committit with his complices, in the moneth of November I^m.V^c. fourfcoir sevintene yeiris.—(2.) ITEM, ffor airt and pairt of the thifteous Steilling, conceilling, refetting and away-taking of ten oxin and fyve ky, furth of the landis of Soutray-barnes; quhilkis ky and oxin pertenit to Robert Wodell in Tranent, and was pasturand and in girfing vpone the saidis landis; committit in the moneth of August I^m.V^c. fourfcoir systene yeiris.—(3.) ITEM, fforfamekill as James Hoppringill, sone to Williame Hoppringill, haifing in the moneth of August, 1595 yeiris, delyuerit to the said Robert Quhippo the fowme of lxxxviii li. to be convoyit to George Hoppringill of Blindlie, for woll coft be the said James fra the said George: And in the meane tyme he consultit with James Hardie, his compaignoun, ane notorius theif, how he sould detene the said fowme; and agreit, that the said James sould sett vpone him at Wompla-buth, in his passing to Blindlie with the said siluer; lyke as, he meitand with him thair, causit the said James cut his claythis, as gif ane number of theifis had set vpone him and had tane the said siluer, with his naig frome him; with the quhilk siluer he nevir pairtit; bot, be consert, slaw the said siluer; and was airt and pairt with the said James Hardie in steilling thair of.—(4.) ITEM, fforfamekill as the said Robert, accompaneit with France¹ and France, brether to the Laird of

¹ French, Frank.

Thornydykis, came in the moneth of Februaire or thairby, in the yeir of God, 1590, to vmq^{le} Thomas Bailleis duelling hous in Sanct Johnes Kirk, and thair brak vp the dur of the stable and thifteoullie staw, conceillit, reffet and away-tuik foure hors pertening to the said vmq^{le} Thomas, and convoyit the famin away with him; and he was airt and pairt of the thiftous steilling thairof.—(5.) ITEM, fforfamekill as the said Robert, accompaneit with dyuerse cowmone theifis, his complices, to the number of sax perfonis, on hors and fute, quhairof foure vpone hors and tua on fute, of the quhilk number Thomas Hardie in Boundmylrig was ane, all bodin in feir of weir,¹ with fuoirdis, secreittis² and vtheris waponis *invafue*, laillie, vpone the xj day of Januar lastbypast, vnder fylence and clud of nycht, betuix fyve and sax houris at evin, as notorius briganes,³ vmbefet the way betuix the burgh of Edinburgh and toun of Leyth to Peter Paterfoun, fernitour to Johne Fyndlafoun burges of Dundie, as he was, in sober and quyet maner, gangand furth of the said burch to the toun of Leyth; and thair, with drawn fwoirdis fett vpone him, and gaif him dyuerse bauche fraikis,⁴ and maisterfullie staw, rest and away-tuik fra him tua hatis, ane fwoird, ane pair of buitis, ane pair of spures, ane bonet-caice⁵ full of evidendis,⁶ ane nicht bonet,⁷ with tua pair of schankis,⁸ being thairintill; pertening to the said Johne Fyndlafoun.—(6.) LYKEAS, he, the famin nycht, betuix the houris foirfaidis, fet vpone George Herper and George Martene, boitmen in Borrowstoun-nefe, as thay war passand in sober and quyet maner, fra the said burch of Edinburgh to the toun of Leyth, dredand na harme, &c. and maisterfullie staw, rest and away-tuik fra the said George Martene fourfcoir li. money; and fra the said George Herper, ane ten s. peace.—(7.) LYKEAS, he, the famin nycht, about the houris foirfaidis, maisterfullie fet vpone dyuerse our fouerane lordis leigis, passand betuix the said burch of Edinburgh and toun of Leyth, and staw, rest and away-tuik fra thame thair cloikis and purffis.—(8.) ITEM, ffor airt and pairt of the thiftious steilling, conceilling, reffeting and away-taking of thre ky, furth of the burch of Lynlythgw; quhilkis ky pertenit to Johne Tulloch smyth thair; committit in the moneth of September, anno 1596 yeiris.—(9.) ITEM, ffor airt and pairt of the thiftious steilling, conceilling, reffeting and away-taking of foure ky and twa oxin, pertening to Waterstoun, his awin man, in Kydlaw, furth of the toun and landis thairof; committit in July 1597 yeiris.—(10.) ITEM, ffor cowmoun thift, cowmone reffet of thift, inputting and outputting of thift, infang and outfang thift, fra laud to land, fra towne to contrie, baith auld and new.

VERDICT. The Justice-depute, eftir dyuerse allegeances maid be the said Robert and his preloquontouris, quhairfoir the said Robert fould nocht be put to the knowledge of ane Assyse, for the faidis crymes, &c. pat the said Robert to the knowledge of ane Assyse; and he being accusit be Dittay in thair prefens, quha denyit the famin, thay removit furth of Court to the Over-Tolbuthe of Edinburghe; quhair thay, being convenit thair allanes, first, be pluralitie of voits choisit the said Mr Patrik Hepburne of Smetoune chanceller of the said Assyse, and thaireftir reffonit and voitit vpone the haill pointis of the said dittay; and being throuchlie advyset thairwith, re-enterit agane in Court, in prefens of the faidis Justice-Deputis; quhair thay, be the maist pairt, be the mouth of the said Chanceller, stand, pronunceit and declairit the said Robert Quhippo to be Cleane, Innocent and Acquit of the haill crymes aboue writtin; except, that thai fand

¹ Warlike array.

² Chain-mail, *secretly* worn under the ordinary dress, 'Pyne doublets.'

³ Robbers, Fr. *brigands*.

⁴ Heavy, severe or deadly strokes.

⁵ Anglicè, 'Band-box?'

⁶ Title-deeds, vouchers, or legal documents.

⁷ Night-cap, Fr. *bonet-de-nuit*.

⁸ Hose, stockings.

him culpabill and convict of airt and pairt of the theftious steilling, conceilling, resseting and away-taking of ten oxin and fyve ky furth of the Landis of Soutray-barnes; quhilkis ky and oxin pertenis to the said Robert Weddell in Trauent, and was pasturand and in gerfing thair, vpone the saidis landis; committit in August, 1595 3eiris.—ITEM, of the airt and pairt of thiftious steilling, conceilling, resseting and away-taking of foure hors fra vmq^{le} Thomas Bailzie of St Johnes Kirk, furth of his stable thair; committit in the moneth of Februare or thairby, I^m.V^c.lxxx ten 3eiris.

SENTENCE. For the quhilk caus, the saidis Justice-Deputis, be the mouthe of Williame Blak dempster, Ordanit the said Robert to be tane to the Gibbet befyde the mercait croce of Edinburghe, and thairvpone to be hangit quhill he was deid; and all his moveabill guidis to be escheit, &c.

[*Mr William Haire, Justice-Depute.*]

Slaughter.

Mar. 20.—GEORGE RATTRAY, seruitour to the Laird of Craighall, and Thomas Lathreis, cherurgeon in Perth.

Dilatit for airt and pairt of the Slauchter of vmq^{le} Williame Hay, sone to Williame Hay of Gourdie.¹

The Aduocat protestit for Wilfull Errorr, in respect of the verificatioun of the cryme, and of his Confessioun, verifeit be the Laird of Auchey and Mr Patrik Hay.

VERDICT. The Assyis being chosin, sworne and admittit, remowit altogidder furth of Court, to the heich Tolbuith of Edinburghe, &c.; and be the mouth of Williame Dowglas of Erlisnylne, chancillar, all in ane voce, stand, pronounceit and declarit the saidis George Ratray and Thomas Lathreis to be ffylit, culpabill and convict of airt and pairt of the crewall Slauchter of vmq^{le} Williame Hay, sone to Williame Hay of Gourdie; committit in the moneth of Februar lastbypast, within Andro Gybis duelling hous in Perth.

SENTENCE. To be tane to the mercat croce of Edinburgh, and thair, thair heidis to be strikin fra thair bodeis; and all thair movabill guidis to be escheit and inbrocht to our souerane lordis vse.

Abiding from the Raid of Stirling—Forfeiture.

Apr. 20, 1599.—JAMES CONNELL in the Maynis of Fleminghill and Twelve others.

¹ 1598-9, Feb. 16. 'The Slauchter of William Hey, sone to the Gudeman of Gourdie, in Andro Gibis hous in the Kirkgait (of Perth), be the Laird of Craighall, Retray and his complices. Thomas Lafreis chyrurgiane wes thair; quha sufferit for it.' *Fleming's Chronicle*, MS. Adv. Library. See also Mar. 16, 1598-9.

PERSĒWAR, Mr Thomas Hammiltoun of Drumcairne, aduocat.

PRELOQUUTOIRIS for the pannell, Mr Johnne Nicolfounne, Mr Richart Spens.

Comperit Johne Grahame of Knokdolian, and produceit our fouerane lordis lettres, deulie execute and indorfat, &c.—The Aduocat produceit ane Act of convietioune, of the dait the xiiij day of December, 1584, quhair the persounes aboue writtin wer convict ffor thair contemptibill (contemptuous) remaning fra the Raid of Struiling, quhilk wes in the moneth of Apryll, 1584 yeiris; and defyrit dome to be pronunceit aganis thame, as thay that wer convict in maner foirfaid.—The pannell askis instrumentis, that thay defyre the Aduocattis aith, quhiddir the Laird of Knokdoliane be his informer or nocht: And als, alledgis that he is informer of the aduocat in this perfuit, and that he wes present att the bar for the said purpois; and defyrit the Laird of Knokdolianis aith thairvpoun; quhairvpoun he askit instrumentis.

The Justice findis that the Aduocat fould nocht gif his aith, nor yit declair quha fould be his informer.

Alledgit that na dome can be pronunceit aganis Johnne Wrycht in Bankhous, becaus he wes nocht convict of the cryme quhairof the rest wes convict.—The Aduocat in the contrair.

It is alledgit for the hail pannell, that na dome of fforfaltour can be pronunceit aganis thame, vpoun the convietioune produceit; becaus the famin is gewin and pronunceit in the 3eir of God I^m.V^c.lxxxiiij 3eir, sen the quhilk tyme our fouerane lord, with auise of his estaitis in Parliament, in the moneth of December, 1585 yeiris, hes be expres Act of Parliament annullit all crymes and offences committit aganis his Maiestie, for the quhilkis his Maiestie may haif ony particuler interes, be quhatsumewir persoun or persounes, men or wemen, within this realme; and hes declarit the famin to be voyd, of the selff, and of nane avall, force nor effect; as att mair lenth is contenit in the fyrst article of the Pacificatioun maid att Lynlythgw, heirwith produceit; quhilk Pacificatioun, in all the heidis and articles thairrof, is ratifeit and apprewit be his Maiestie and Estaitis of Parliament, in the yeir of God I^m.V^c.lxxxvij yeiris, eftir his hieneis perfyte age: Lyke as also, in the famin Parliament, thair is ane generall aboli-tioune of all crymis and offences committit be quhatsumewir his hienes liegis, sen the tyme of his hienes Coronatioun, to the day and dait that may follow thairvpoun, maid and grantit to quhatsumewir personis: And trew it is, that the crymes contenit in the convietioune produceit, concernis his Maiesteis interes allanerlie; and the famin, with the convietiounis following thairvpoun, precedis the said Pacificatioun; and thairfore, be the expres prouisioun thairrof, ar null of the selffis.—It is answert be the Aduocat, that the alledgeance is nawyis relevant, nather can it stay dome to be pronunceit aganis the pannell, conforme to

the convictioun producit ; becaus the Actis of Parliament, quhairvpoun the alledgeance is foundit, contenis only ane abolitioun of crymes committit be his Maieftis profellit rebellis, in the commounne trubles ; and is nawyis menit of sic as abaid att all tyme att his Maieftis obedience, and wer newir ather foirfalt, baneift, or demunceit rebellis, for the said commounne caus : For gif the said Act mycht be ane warrand to this pannell, it mycht also weill ferue to be remiffioun to all sic as ather committit thift, or oppreffioune, or transportit forbidden guidis, foirstallit victuallis, or regratit the mercatis, before the said Act, in the yeir of God, 1585, quhilk wer absurd ; and thairfore the pannell, newir haifing bene pairt-takeris of the commoun trubles, can nawyis inioy the benifite of the said Act, maid allanerlie for that caus, for fatling of the saidis trublis ; and nawyis to procure impunitie to sic as haifing abidden att his Maieftis obedience, hes committit ony crymes ; vtherwyis the said Act, quhilk wes maid for pacefeing of the countrey, and vniting of his hienes guid fubiectis, fould haif bene ane generall Remiffioun to all thewis, brigands, oppreffouris, and vtheris disorderit people of the countrey ; quhilk na man will alledge.

To the quhilk it is replyit, that the generall Abolitioun and Act of Pacification hes twa pairtis ; ane thairof, quhilk is confaut in favouris of thay (thofe) profellit rebellis contenit in the anfueris, sic as repoffeffioun of thay perfounes difpoffeit for the commounne caus ; vpoun the quhilk pairt of the Pacification the defenderis alledgeance is nocht foundit : The fecund pairt thairof is maid and confaut in favouris of the haill liegis ; be the quhilk, all crymes, offences and attemptis, committit aganis his Maieftie, and for the quhilk his hienes hes particuler interes allanerlie, ar altogidder annullit and aboleifchit ; except the speciall crymes and speciall perfounes committeris thairof, mentionat in the saidis Actis of Pacification and Abolitioun ; quhilk exceptioun makis the said law to be generall and vninerfall, to all kynd of crymes quhilkis ar nocht exceptit ; and it is na absurd thing to grant, that his Maieftie hes gewin ane pardoun and remiffioun to all crymes and offences mentionat in the said anfuer, quhen the famin is limitat to ane certane tyme ; and speciallie, quhen the famin is maid be his hienes with auife of Parliament, for eftableiffing of ane generall peax and quyetnes within the countrey : And quhen it is menit that thiftis, reiffis and oppreffiounes, be this constructioun, will fall be this Act of Pacification ; it is anfuerit, that the saidis crymes concernis particuler parteis, and nocht the Kingis interes allanerlie ; and the parteis interes is nocht difchargeit be the said Act of Parliament ; and this cryme concernis the Kingis interes allanerlie.—It is anfuerit be the Aduocat, that the excepting of fun crymes in the Act, is only menit of crymes committit be the saidis perfounes aganis his Maieftie, the tyme of the commoun trubles ; nather can the famin Act be extendit to ony crymes com-

mittit be ony vther perfounes ; for it is notoure, that in all Justice Courtis, fen the yeir of God 1585, dittay hes bene tane, and tryall and pwneifment hes followit, for all foirt of crymes committit before the said Parliament, haldin in the 1585, be sic perfounes as wes nocht pairt-takeris of the commoun trubillis.

The Justice continewis Interloquutour to the morne, and ordanis the perfonis comperand to find caution.

Apr. 21.—SENTENCE. The Justice Ordanit na proces againis Johnne Wrycht in Cabrokhill. The said Justice-depute fand, that Doune fuld be pronounceit aganis thame, in maner following : And be the mouth of Williame Blak dempftare, Ordanit that the saidis perfonis, and ilkane of thame, fuld fforfalt their landis, heritages, takkis, fteidingis, cornis, cattell, guidis and geir ; and the famyn to be efcheit, to our foverane lordis vfe : And to pas in ward within our Tolbuithe of Edinburghe, thairin to remane induring his hienes will ; as convict in ane Court of Justiciarie, haldin in the Tolbuithe of Edinburghe, the said xvj day December, the 3eir of God I^m.V^c.lxxxiiij 3eiris foirsaid, be the vinq^{le} Mr Johnne Grahame Justice-depute, for abyding fra our foverane lordis oift, raid and airmye, quhilk wes ordanit be his hienes Proclamatioun to haue convenit at Halirudhous, in the moneth of Aprile, the 3eir of God I^m.V^c.lxxxiiij yeiris, and thairfra to haue past forduarde to the burgh of Striueling, for repreffing of the treflonabill attemptatis of certane his Maieftis tratouris and rebellis, quhilkis had fuppryfed the said burgh of Strineling and Castell thairof.

Using False Weights and Measures.

Maij 18.—JOHNE CARSTAIRS, citiner¹ in Sanct Androus.

Dilatit for contravening of the Actis of Parliament in vſing of fals vechtis and meſouris.²

PERSEWAR, Mr Thomas Hammiltoun of Drumcarne, aduocat to our foverane lord.

PRELOQUUTOURIS, Mr Johne Scharp, Mr Johne Ruffell, Mr Henry Balfour, Mr Robert Leremont.

Comperit Mr Robert Weymis, and produceit ane Precept, ſubſcryuit be his Maieſtie, quhairof the tennour followis.

REX,

JUSTICE-GENERALL and 3our deputtis, We greit 3ow hairtie weil. It is oure will, and We, for certane reſſonabill cauſſis and conſiderationis moving ws, Command 3ow and 3our clarkis, to continew 3our Court appoyntit to be haldin in our Tolbuithe of Edinburgh, þe xvij day of Maij inſtant, anent þe accuſatione led at þe inſtance of our aduocat, aganis Johne Carſtairs, merchand, citiner in Sanct

¹ Citizen.

² This Trial is inserted, not so much on account of any peculiar importance which the Editor attaches to the case ; but because it highly illustrates the constant importunities which must have been practised, in soliciting Warrants from the King ; and the strange vacillation displayed by him in granting these Precepts. It is altogether a ludicrous, as well as a melancholy instance, of the absurdity of the King's perpetual interference with the judicial proceedings of the country.

Androis, for þe caussis contenit in our vperis lettres, direct furth pairanent : Dischargeing 3ow of all proceeding pairin aganis him or his cawtioner, vnto þe thrid day of þe nixt Justice air of our Sherefdome of Fyfe, or that he be wairnit of new agane vpoun fyftene dayis wairning : And that nocht-withstanding quhatsumevir Warrant, gevin or to be gevin to 3ow in the contrair ; quhairanent þir presentis falbe 3our Warrant. Subferyuit with our hand, At Halyrudehous, the auchtene day of Maij, and of our regne þe xxxij yeir, 1599. (Sic subscribitur) JAMES REX.

Comperit the said Johne Carstairs, and produceit the Precept vnderwrittin.

REX,

JUSTICE, Justice Clark and 3our deputtis, and our aduocat, We greit 3ow weill : Forsamekill as We vnderstand that our louit Johne Carstairs, merchand citiner in Sanct Androns, is, vpoune sinister repoit and informatioun maid of him, summond to vnderlye our lawis, for allegeit vsing of wrangous wechtis and meafouris : And seing, We perfytelie knaw the said Johne to be alwayes innocent of þe said cryme, and that the informaris name is nocht insert in the criminall lettres raisit pairanent : Thairfor, it is our will, and We command 3ow, that nochtwithstanding pairif, in caise ony informar compeir in the said cause, that 3e insist in the persute pairif, minister justice pairintill, and put the samyn to þe knowledge of ane assyis ; and albeit na informar compeir in þe said mater, that 3it nochtwithstanding pairif, the Lettres being repoitit, deulie execute and indorfat, 3e proceid pairintill and put þe samyn to the Tryell of ane Assyis ; and gif neid beis, that 3e cause summond ane assyis of sik persounes as ar presentlie within þis burch, or may be had at þe bar for þis effect : And fail3eing of the repoit of þe saidis lettres, that 3e direct na sik lettres aganis þe said Johne in ony tyme heirefter, vpoune ony sik informatiounne, quhairbye the said Johne may be molestit or trublit, he and his freindis put to extraordinar chargeis and expensilis, in attending vpoune ony sik dyet, in ony tyme heirefter : Quhairanent þir presentis falbe sufficient for 3our Warrant : And for 3our forder Warrant, it is our Will that þir presentis be registrate in þe buikis of Counsale, *ad futuram rei memoriam*. Subferyuit with our hand, Att Halyrudehous, the xvij day of Maij, 1599.

(Sic subscribitur)

JAMES REX.

THE BAILIE-DEPUTE of the *Regality of St Andrews* permitted to sit in judgement, with the *Justice-depute*.

Maij 19.—Comperit Mr Robert Leirmand as procuratour and depute for the Laird of Derrie, stewart of the Regalitie of Sanct Androns, and desyrit Johne Carstairs to be replegeit to the Regalitie of Sanct Androns ; at the leist, that the said Stewartis-depute, lauchfullie authoresit, may sitt in judgement with the Justice, according to the provisiounne of the Act of Parliament.

The Justice refusis the Replegiatiounne, becans the Kingis aduocat wes fyrst challanged before the Justice generall ; and Admittis William Leirmond, Baillie-depute, to sitt with him in Judgement, to see justice ministrat as efferis : Quhais rycht of Baillerie being sene, he satt down in judgement.

The aduocat askis instrumentis of the swering of the Assyse, and protestis for Wilfull Errour in cais thay acquit.—The hail Assyse askit instrumentis, that nather witnes nor probatioun wes produceit to thame, for verificationn of the dittay.

Comperit Mr Henrie Balfour, Aduocat, and produceit his Maiesteis Warrant, quhairof the tenmour followis.

REX,

JUSTICE, Justice Clark and 3our deputtis, We greit 3ow well. Seing, the mater criminall

perfewit at our instance and our aduocat, aganis Johne Carstairs, citiner of Sanct Androis, wes continewit 5isterday to pe nyntene day of Maij instant, quhairanent We find our selfis indirectlie circumvenit;¹ and We being of deliberat mynde, that justice salbe ministrat indifferentlie to our haill liegis, to pe effect that malefactoris may be pwneissit, and sik as ar innocent may be defendit, be thair innocencie : Heirfoir, it is oure will and We command 5ow, that the said mater be put to pe knowlege of ane Inqueist, without ony forder delay or continewatioune, the said xix day of Maij instant; and that 5e proceid and minister justice pairintill, as accordis of the laws : And in cais ony of pe personis of pe Inqueist summond to pass vpoun the Assyis be absent, that vperis be elected and chosin in pair place; nochtwithstanding ony letter, charge or directionne, gevin or to be gevin be ws in the contrar. Subferyuit with our hand, Att Halyrudehous, the xix day of Maij, . . .

(Sic subscribitur) JAMES REX.

Comperit lykewyis, the samyn day, Mr Robert Lyntoune, substitute for Mr Thomas Hammiltoune aduocat to our souerane lord, and produceit his Maiesteis Warrant; off the quhilk the tennour followis.

REN,

MR THOMAS HAMMILTOUNE of Drumcarne, our aduocat : It is oure will, and We command 5ow, that 5e insist in our name in the persuit of pe lettres criminall, raisit at our instance aganis Johne Carstairs, citiner of Sanct Androis, for vsing of fals wechtis and mesouris, as is alledgeit : And that 5e sie the said mater be put to pe knowledge of ane condigne Assyis, to pe effect the veritie may be tryit, and justice ministrat as accordis of pe law : As 5e will be answerabill to ws vpoun 3our dewtie and obedience, nochtwithstanding ony vther Letter gevin, or to be gevin be ws in pe contrair. Subferyuit with our hand, Att Halyrudehous, the xix day of Maij, 1599.

(Sic subscribitur) JAMES REX.

Followis the DITTAY against John Carstairs.

THAT quhair, it is statute and ordenit be our souerane lordis maist nobill progenitour, King James the fourt, of worthie memorie, in his hienes Parliament, hauldin at Edinburghe, the xxvj day of Junij I^m.iij^o.lxxiiij (1474) yeiris, that all thai that vsis fals measouris and wechtis, disflaueand the pepill, sould be indytit as falsaris, and dittay ordanit to be takin thair of be the Justice Clark; as att mair lenth is contenit in the said Act of Parliament, off the dait aboue writtin; quhilk is ratifeit and approvin in all Parliamentis that ewir hes bene haldin senfyne be our souerane lord and his hienes maist noble progenitouris, of worthie memorie : Neuirtheles, it is of veritie, that the said Johne Carstairs hes maist fraudulentlie and falslie, contrar the tennour of the saidis Actis of Parliament, lawis and constitutiouns of this realme, daylie and continewallie thir fax yeiris lastbypast, in vsing of his industrie and traffique of merchandice, vsit wechtis and measouris, in bying, bloking and intaking of all soirt of geir fra the commoun peple, with grit wechtis and lang elvand,² far mair gritar and langar nor the commoun course of the countrey, and of the citie quhair he duellis, and throw all the mercatis of this realme quhair he hantis,³ frequentis, and makis his residence and mercats : And agane, in felling, weying, and gewing furth of the samin merchandice, wair and guidis, with les measouris and schortar elvand, to his hienes leigis : Lyke as, the said Johne Carstairs hes bein oft and diners tymes

¹ Circumvented, imposed upon.

² Elu-wand, or yard in measure.

³ Haunts, visits.

trappit and snairrit in his dowbill fraudes, falsett and dissait, in vsing of the saidis fals wechtis and meafouris, bayth in the Citie of Sanct Androus, and in findrie vtheris our souerane lordis mercattis and publict places of this realme; and specialle, att findrie tymes, be Dauid Watsoun, deane of Gild of the said Citie, and his Gild breder; and at last wes accensit, tryit and conuict of the said cryme of falsett and fraudulent vsing of the saidis fals wechtis and meafouris, before the said Deane of Gild and Gild breder, in the moneth of the 3eir of God I^m.V^c.lxxx 3eiris; as the conuictioun att mair lenth beiris.

VERDICT. The Affyis, be the mouth of Stevin Philp, merchand in Sanct Androis, thair chancillar, ffand, pronunceit and declarit the said Johne Carftaris, to be Innocent and Acquit of the said crymes.

[CURIA JUSTICIARIE tenta in Templo de Falkland, xvj Junij 1599, per M. Wilelmum Haert et per Andream Meluile, Magistrum domus,¹ f.d.n. Regis.]

Assault within the Palace of Falkland.

Jun. 16.—MR PATRIK MYRTOUNE, ane of his Maiesteis Maister carveris, and JOHNNE RAMSAY, ane of his Maiesteis familiar serwandis.²

DITTAY against Mr Patrik Myrtoune.

FORSAMEKILL as he, vpoune the tent day of Junij instant, being in his Maiesteis chalmer in the Palice of Falkland, and enterand in conference with Johnne Ramsay, ane vther of his Maiesteis familiar serwandis, efter sum contentious purpose past amangis thame, vsfemelie for sik ane place, he nather regairdit the dewtie aucht to his Maiestie his souerane prince, as his borne subject, nather the mair strait obligationne quhairby he was bund to his hienes, as his awin proper serwand; he tressonablie and malitionslie struike the said Johne Ramsay vpone the face with his hand, and gaif to him ane cuff,³ his Maiestie being in his cabinet within the said chalmer: And swa, alaweill in respect of the neirnes of the fact, committit sa neer his Maiesteis awin persoun, as that the samyn was done within his awin bed chalmer, he hes tressonablie transgressit his hienes lawis and

¹ The Chamberlain and Master of the Household had jurisdiction in all offences committed within the King's Palace and certain bounds. The Lord High Constable had likewise similar powers, but more extensive than either of these other officers. Fortunately the whole facts in this very singular case have been pretty fully detailed in these proceedings. ² The well known Sir John Ramsay, (brother of George first Lord Ramsay of Dalhousie. He was afterwards created Viscount of Haddington, Lord Ramsay of Barns and of Melrose in Scotland, Baron Kingston upon Thames and Earl of Holderness in England. Ramsay, at that time one of the King's Pages, was the principal instrument in saving King James VI. from assassination, at Perth, on Aug. 5. 1600, when assaulted by Mr Alexander Ruthven, brother to the Earl of Gowrie. Ruthven was twice stabbed by Ramsay with his dagger and thrown down the staircase, where he was dispatched by Sir Thomas Erskine and Dr Hugh Herries. It was he also who subsequently rushed upon the Earl of Gowrie, and pierced him through the heart. See Trials for the GOWRIE CONSPIRACY, Aug. 22 and Nov. 1600, Aug. 12, 1600, Jun. 24, 1609, &c. ³ A slap or slight blow.

Actis of Parliament maid thairanent, and hes incurrit the panis thair of: Lyke as also, he vpoune the morne thairefter, being the elleuint day of the said moneth of Junij, vpoune ane new rencounter maid betuix the said Mr Patrik and the said Johne Ramfay, within the Inner cloise of the said Palace, his Maiestie being within the samyn, he maist contempteuoslie and vndewtifullie drew his sword and preissit to haif stryckin and slane the said Johne thairwith, gif he had nocht bene stayit be certane of his Maiesteis serwandis, being thair present for the tyme; quhairbye, he hes also transgressit his hienes Actis of Parliament and Lawis of this realme, and hes incurrit the panis thairin contenit.

DITTAY against Johne Ramsay.

Forfamekill as he, vpoune the tent day of Junij instant, being in his Maiesteis bed-chalmer, within his Palice of Falkland, quhair his Maiestie was for the tyme, within the cabinet thair of; and haifing enterit in certane vnsemelie and contentious purposis, with Mr Patrik Myretoune, ane of his Maiesteis carveris; and be vndiscretioun of his language and behaviour, entering in sik quarrelling with vtheris;¹ and that in end, all dewtie being forget² on ather fydes; and nather respecting tyme, place, nor the neirnes of his Maiesteis awin persoun, the said Johne maist vnadwyfedlie and vndewtifullie gaif to the said Mr Patrik the ley;³ quhairvpoune the said Mr Patrik stryking him with his awin hand vpoune the face, the said John thairbye contracting ane deidlie quarrell aganis him, vpoune the morne thairefter, the elleuint day of the said moneth; being resolut to revenge his particuler,⁴ without ony regaird of the Kingis Maiesteis honour and his awin dewtie, his Maiestie being his native Prince and gracious maister; wilfullie and malitiouoslie, vpoune set purpois and foirthocht fellonye, assailziet and invadit the said Mr Patrik within the Inner cloise of the said Palice, his Maiesteie being within the said Palice for the tyme, and tressonablie struck the said Mr Patrik with ane batoun⁵ vpoune the arme and heid, and thairefter drew his sword to haif slane him thairwith, gif he had nocht bene stayit, be certane of his hienes gentlemen and serwandis being present for the tyme: Quhairbye he has tressonablie transgressit his hienes lawis and Actis of Parliament maid thairanent, and hes incurrit the panis thairin contenit.

PENSEWAN, Mr Thomas Hammiltoun of Drumcarne, aduocat to our souerane lord.

ASSISA.

Andro Lundy of Conland,	Robert Arnot, Baillie in (of) James Boig, sellarman,
Mr Frances Bothwell, seruitour	Falkland, James Blyth, in Falkland,
to his Matie,	William Henryfoun, seruitour to James Lundie, seruitour to her
Johne Drummond, Ischar to his	his Matie, Matie,
Matie,	Johne Boig, Maister portour, Robert Galbraith, Pantrieman,
Hary Balfour, seruitour to his	William Craig, ailman, James Lyddell, Ypotifar.
Matie,	John Awerie, in Falkland,

¹ Each other. ² Forgotten. ³ The lie. ⁴ Personal quarrel. ⁵ The blow with the baton was given to aggravate the previous offence, and to afford an opportunity of immediate combat.

Mr Patrik Myrtoune, eftir reiding of the Dittay, defyrit tryell to be tane of the Dittay laid to his charge ; and als, nochtwithftanding, he wald humblie fubmit him to his Maieftis will.—The faid Johne Ramsay, eftir reiding of the Dittay laid to his charge, declarit that he could nocht deny the Dittay, bot wald maift humblie fubmit him felff in his Maieftis will.—Quhairvpoune and the faid Mr Patrikis will, the faid Mr Thomas Hammiltoune askit instrumentis.

VERDICT. Quhilkis perfonis of Affyis being chofin, fworne and admittit, eftir the accufatione of the faidis perfonis be dittay of the crymes *refpective* aboue writtin, removit furth of Court to ane quyet place of the faid kirk, quhair thay electit and chufe the faid Johne Drummond (of Slipperfeild) Chancillar, &c., and ffand, pronounceit and declarit the faid Mr Patrik Mortoune to be fyllit, culpabill and convict of the crymes aboue writtin, contenit in his Dittay : And als ffand, pronounceit and declarit the faid Johne Ramsay to be fyllit, culpabill and convict of the crymes aboue writtin, contenit in the Dittay foirfaid.¹

[*Mr Robert Murray, Justice-depute.*]

Theft of a Coffer with Writtings, &c.

JUN. 21.—GRISSELL MATHOW, ferwand to James Seytoun, burges of Aberdene, and William Calder, workman in Abirdene.

Dilatit for airt and pairt of the thifteous Steling of ane coffer with writtis and evidentis furth of the faid James (Seytounes) hous, pertening to Mr George Seytoun ; committit in the moneth of May lafbypaft.

James Seytoun takis instrumentis that Griffell Mathow was never feduceit to mak the Confessionis quhilkis ar writtin ; and alfo, that the thing that he confeft befor the Sherefe of Abirdene and baillies thairof is trew, and he abydes at the famyn ; and farther, that the Depofitione, now producit, was maid in the faid James Setounis awin hous, quhair thair was na tortour nor ynes presentit to hir. Seho (Griffell Mathow) confeffis lykewyis, that fcho maid that Confessione vncompellit. Eftir reding of the Dittay, fcho ratefeit the faid Declaratione maid be hir ofbefoir, and confeft the famyn to be of veritie.

William Calder declairis that he brocht the coffer down the flair.

Mr Alexander Peblis takis instrumentis, that thay declair thay maid the fame Depofitionis, abydes thairat and declairis the famyn to be of veritie.

DITTAY against Grissell Mathow and William Calder.

FORSAMEKILL as thay, in the moneth of May lafbypaft, being intitit and feduceit be James King, burges of Abirdene, to thifteouffle steill and gif to him the maift fecret coffer quhilk Mr George Seytoun, Tutour of Meldrum, had, ftandand in the faid James Seytoun's duelling hous in the Braidgait of

¹ The King's Will is not inserted, and no farther entries occur. Owing to Ramsay's youth and other circumstances, it is likely that both were placed under arrest for a short time. At all events, both of them were afterwards restored; and it is likely that they received a suitable reprimand.

Abirdene, with his gold and siluer being thairin; and the said Griffell being seruitrice within the said hous, and knawing the haill secreitis thairof, after conference with the said James, sche desyrit him to cum about ellewin houris att ewin, the nycht of the away-taking thairof, to the said James duelling hous; and thair sche sould delyuer to him the maist secret coffer quhilk the said Mr George vsit; sche supponing that his gold and siluer wes thairin: Lyke as, the said James, accompaneit with the said Williame Calder, in the moneth of May lastbypast, vnder sylence and cloud of nycht, about xj houris att ewin or thairby, come to the said James Seytounis duelling hous, to ane chalmer vpoun the turnpyke heid thairof, quhair thair wes ane new coffer, bandit with quhyte irne, pertening to the said Mr George, standand, and thair the said Griffell delyuerit the said coffer to the said Williame, quha brocht the samyn doun to the hall dure, quhair the said James King was standand; and thairfra 3e and he thifteoullie concealit, ressett and away-tuke the said coffer, quhairin thair wes certane writtis and euidentis, doun the stair; and convoyit the samyn furth of the turnpyke 3ett, doun the cloise, and throw Capitan Keiris 3aird and to Fyveis wallis, quhair thay sett doun and brak vp the syde thairof with ane quhingar,¹ and thifteoullie stall and away-tuke furth of the samyn, twa bunfchis of letteris and writtis: And swa, thay and ayther² of thame ar airt and pairt of the thifteous steilling thairof, concealing, ressettting and away taking of the samyn coffer, with the writtis thairin, furth of the said James duelling hous: Quhilk coffer pertenit to the said Mr George, as said is, as wes notourlie knawin.

VERDICT. The Assyis being chosin, sworne and admittit, and in thair presens the saidis Griffell Mathow and Williame Calder accusit be Dittay; and eftir thar Depositionis, maid att Abirdene the sewint, and att Edinburghe the xiiij dayes *respectiue* of Junij instant, quhairin thay confest the haill Dittay aboue written, wer produceit to thame, for verifeing thairof; and efter reding thairof in thair audience, the saidis persounes remowit furth of Court to ane quyet pairt of the said Tolbuyth, &c.; and be the mouth of Patrick Con of Auchry, chauncillar, stand, pronounceit and declarit the saidis Griffell Mathow and Williame Calder to be culpabill, sylit and convict, &c.: Quhairvpoun the said James Seytounne askit actis and instrumentis.

[*Mr William Hairst and Mr Robert Murray, Justices-deputes.*]

JUNE 23.—SENTENCE. The Justice-deputtis, be the mouth of Williame Blak, dempstar, decernit and ordanit the said *Grissell (Mathow)* to be tane to the North Loch of Edinburghe, and thair DROWNIT³ quhill scho be deid; and all hir movabill guidis to be escheit, &c.

[*Mr Robert Murray, Justice-depute.*]

JUN. 27.—The Justice Depute Decernit and ordanit the said *Williame Calder* to be skourgit throw the burch of Edinburghe, and Baneist the said Burch, and lykewayis baneist the burch of Abirdene; and never to returne within the said burrowis, vnder the pane of deid.

¹ A short sword, *hanger* or cutlass. ² 'Ik-ane,' each, *either*. ³ This is the first, perhaps the only instance, of sentence of Drowning, pronounced during the reign of James VI. by the High Court of Justiciary. It was common in all Regality and Barony Courts, having a feudal right of '*pit and gallows*,' to inflict death upon women in this manner. The North Loch of Edinburgh was the scene of execution, in all such cases, where sentence was pronounced by the Baillies of Edinburgh, or by the Baillie of Regality of Broughton. The bones of some of the culprits have often been turned up, when the surface of the ground required to be disturbed.

[*Mr Williame Hairt, Justice-Depute.*]

Bearing of Pistolets — Slaughter.

Jun. 23.—PATRIK DUNBAR, sone to Johne Dunbar of Leacht.

PERSEWAR, John Tait, as broder to the said v^mq^{le} Charles Tait.

PRELOQUUTOUR for the pannell, Mr Johne Nicolfoune.

The quhilk day, anent the criminall actioun and cause, persewit in ane Court of Justiciarie, haldin in the Tolbuith of Edinburghe, the xxij day of Junij instant, at the instance of Johne Tait, as brother to v^mq^{le} Charlis Tait, younger of Adamhill, aganis Patrik Dunbar, brother to Johne Dunbar of Leacht, for contravening of our souerane lordis Actis of Parliament, in bering and weiring of pistulettis, vpoun the landis of Bar, Kilmarnok and toune thairrof, vpoun the xxiiij, xxv, xxvj, xxvij, xxviii and penult dayes of October lastbypast; at the leist, in ane or vther of the saidis dayis: And siklyke, for airt and pairt of the felloun and crewall slauchter of the said v^mq^{le} Charlis Tait; committit vpoun the penult day of the said moneth of October lastbypast, with sword and schot of pistulettis in the toune of Kilmarnok, vpounne set purposis, provisiounne and foir-thocht fellounye: At the quhilk xxij day of Junij instant, the said Patrik comperand with Mr Johne Nicolfoun, his preloquutour, and enterand on pannell, conforme to aie charge gevin be vertew of our souerane lordis lettres, purchest at the instance of the said John Tait, to David Dunbar of Baldork as cawtioner, quha wes chargeit to enter him to vnderlye the law for the crymes foirfaidis; and alledgeit that na proces culd be led aganis him, for beiring, weiring and schuting of pistulettis; nather culd he be put to the knowlege of ane Assyis thairfoir: because he hes obtenit our souerane lordis Remissioune, vnder the Greit Seill, for the samyn: As the said Remissioune, of the dait, at Halyrudehous, the xx day of Februar, produceit, beiris: And siclyke, it was alledgeit be the said Patrik and his preloquutour, that na proces can be led aganis him, nather could he be put to the knowlege of ane Assyis, for airt and pairt of the slauchter of the said v^mq^{le} Charles Tait, becaus it is of veritie that the said v^mq^{le} Charles, being chargeit be Robert Giliuerie, messinger, vpounne the xxv day of March, the yeir of God I^m.V^c. lxxxxvj yeiris; and that be vertew of our souerane lordis lettres, purchest at the instance of George Dunbar in Leshesslok, as fader, with the remanent kyn and freindis of v^mq^{le} George Dunbar, seruitour for the tyme to James Chalmer of Gaitgirth, to haif fund sufficient cawtionne and fouertie to him that he suld haif comperit before our souerane lordis Justice or his deputis, in the Tolbuithe of Edinburghe, the xxj day of Apryle nixt thaireftir, in the yeir of God foirfaid, and vnderlyne the law for airt and pairt of the slauchter of the said v^mq^{le} George Dunbar, in defalt of fynding of the said fouertie, and for his disobediencie and contemptiounne; the said Robert Giliuerie, messinger, be vertew of the saidis lettres, vpounne the secund day of the said moneth, past to

the mercat croce of the burch of Air and thair lawfullie denunceit the said vmq^{le} Charles Tait our fouerane lordis rebell, and put him to his hienes horne, as the extract of the saidis Lettres of Horning, dewlie execute, indorfat and regiftrate, vnder the signe and subfcriptiounne mannall of Williame M^cKerrell, shereffe clark of Air, produceit to the saidis Jugeis, at mair lenth beris: And fwa, the said vmq^{le} Charles wes flayne att the horne.

With the quhilkis alledgeances, the said Justice depute, nòcht being avyfit, continewit to pronounce his Interloquuntour thairin to this day and place; and ordanit the said Patrik Dunbar to find cautioune for his entrie; quha fand Williame Dunbar of Enterkyn cawtiounne and fouertie for his comperance; lyke as, the said Patrik Dunbar, comperand and entrand on pannell this day, with the said Mr Johne Nicolfoune his preloquuntour, and the said Johne Tait, as persewar, oftymes callit, lawfull tyme of day biddin, and nocht comperand to persew, the said Justice Depute ffaund be Interloquuntour na proces to be led aganis the said Patrik Dunbar, nather yit that he falbe put to the knowledge of ane Affyis for the crymes foirsaidis; in respect of the alledgeance abouewrittin, verefeit.

Slaughter.

Jul. 4.—ANGUS WILLIAMSOUNE alias M^cINTOSCH, in Termit, Johne and Angus his fomis, Lauchlane Williamfoune, George M^cCo-neill Reoch, at the Brigend of Inuerues, and Allester M^cAchane VicGillichallum.

Dilatit for airt and pairt of the Slauchter of vmq^{le} Allester M^cRannald sone to Allane M^cRannald of Eifter Leyis.¹

The quhilk day, comperit David Hammiltounne, agent,² and produceit our fouerane lordis lettres, dewlie execute and indorfat, (except the summonding of ane Affyis,) purchest be Johne M^cRannald, sone and apperand air to Allan M^cRannald of Eifter Leyis, as brother, with the remanent kyn and freindis of vmq^{le} Allester M^cRannald, sone to the said Allane, to tak fouertie of Lauchlane Williamfoune, alias M^cIntosche, &c., that thay sould haif comperit befor our fouerane lordis justice or his deputtis, this day and place, in the hour of cause, and vnderlyne the law, for airt and pairt of the slauchter of the said vmq^{le} Allester M^cRannald. Quhairvpoun he askit instrumentis.

Comperit the samyn day, Angus Williamfoune of Tarmit, &c., and exponit and declarit, that thay war summond be Johne Rofs, messinger, and that be vertew of our fouerane lordis Lettres, purchest at the instance of Johne M^cRannald, sone and apperand air to Allane M^cRannald of Eifter Leyis, as brother, with the remanent kyn and freindis of vmq^{le} Allester M^cRannald, sone to the said Allane, to

¹ See Jul. 20, 1599.

² This is the earliest instance the Editor has met with of an *Agent* appearing, as procurator, at the bar of the Court of Justiciary.

fynd sufficient cawtioun and fouertie that thay fuld haif comperit befor our foverane lordis Justice or his deputtis this day and place, in the hour of caufe, and vnderlyne the law for airt and pairt of the slauchter of the said vmq^{le} Allester M^cRannald; and thay, for obedience of the said charge, stand Lauchlane M^cIntosche of Danachtan cawtioner and fouertie for thair entrie, to the effect foirsaid; ffor quhais relieff, and tryell of thair innocencie in the said cryme, thay comperit, as said is, and enterit on pannell; and protestit for relief of thair said cautioner: As lykewyis, offerit thame reddie to abyde the tryell of ane Assyis, and vnderlye the law for the said cryme; dissassenting fra all continewatioun: In respect quhairof, and that na partie comperit to persue thame, being oftymes callit, and lawfull tyme of day biddin, thay lykewyis protestit, that na lettres be grantit in tyme cuning, for trubling or summondin thame for the said cryme: Quhairvpoun thay askit actis and instrumentis.

[*Mr Robert Murray, Justice-Depute.*]

Slaughter.

Jul. 13.—JAMES GRAHAME, brother-german to vmq^{le} David Grahame of Fyntrie.

Dilatit for the slauchter of vmq^{le} Johne Crawford, seruitour for the tyme to vmq^{le} Robert Erle of Orknay; committit in the moneth of December yeiris, within the Kirkzaird of Fernay, vpoun sett purpois, provisioun and foirthocht felonye.

PERSEWAR, Marioun Boyes, relict.

The said James Grahame alledgeis, that he can nocht pass to ane Assyis, becaus he hes obtenit the Kingis Respect¹ for the said cryme, for the space of xix yeiris nixt, efter the dait thair of, quhilk is of the dait, at Falkland, the nynt day of July instant; and takis² him to the said Respect.—It is alledgeit be the persewar, that the said Respect is contrair the Actis of Parliament, and thairfor is null in the selff; it being grantit, without satisfacioun of partie.—It is ansuerit be the pannell, that the grace³ of ane King can nocht be tane away be ane Act of Parliament; and the Kingis handis can nocht be clost in granting of the samyn.

The Justice admittis the Respect, in respect the pannell is reddie to find caution to satisfie⁴ the partie, as law will. Williame Stewart, brother to Johne Erle of Atholl, becomes fouirtie that he fall satisfie the said Marioun Boyes, persewar, as law will.

¹ Respite, dated at Falkland, Jul. 19.
Assythment.

² Betakes.

³ Royal prerogative.

⁴ Viz. for the

[*Mr Williame Hairt, Justice-Depute.*]

Slaughter.

Jul. 20.—ALLANE M^cRANNALD of Eifter Leyis.¹

Dilatit for airt and pairt of the slauchteris of vmq^{le} Donald Williamfounne, in, and for the slauchter of vmq^{le} Alexander and Johne Hayis, in Kilrawik. PERSEWARIS, James Hay, sone lauchfull to vmq^{le} Alexander, and brother to vmq^{le} Johne, with thair remanent kyn and freindis ; Johne Williamfounne, as brother, with remanent kyn and freindis.

The pannell offerit him reddie to abyde the tryell of ane Assyis, and vnderlye the law, for the saidis slauchteris, dissasenting fra all continewatioun : In respect quhairof, and that na partie comperit to insist in his persute, protestit first for releif of his cawtioneris, (Alexander Ruthvene, pensioner of Rofs, and Alexander Bayne, fear of Logie) ; as also, that he be nawyis trublit, persewit nor summond for the slauchter of the saidis personis in tymes cuming ; and lykewyis protestit that the dyet shold desert.—The Justice ordanis this dyet to desert.

Slaughter.

Jul. 25.—WILLIAME AUCHINCRAW, in Swynwod-heuchaid, Hary Craw (Auchincraw), in Eift Restounne.

Dilatit for airt and pairt of the slauchter of vmq^{le} George Hwme of Spot ; committit in the moneth of September, the yeir of God, I^m.V^c.lxxxxj yeiris, vpounne set purpois, provisiounne and foirthocht felonye.

Comperit Williame Home, brother to the Gudeman of Manderstounne, togidder with Jeane Hammiltounne, relict of vmq^{le} George Home of Spot, and Annas Home, dochter, and produceit our fouerane lordis lettres, dewlie execute and indorsat ; quhairvpounne thay askit actis and instrumentis.

Patrik Cokburne, Tutour of Langtounne, called, as cautioner and fouerte for the saidis Williame and Hary ; lawfull tyme of day biddin, and nocht enterand, he was vnlawit, and amerciat in the panis, contenit in the Actis of Parliament, viz^t ij^c markis, for non-entrie of each of the saidis Williame and Hary : Lyke as, the said Justice-depute adjudgeit the saidis Williame and Hary Auchincrawis to be denunceit our fouerane lordis rebellis, and put to the horne, and all thair movabill guidis ordanit to be escheit and inbrocht to our fouerane lordis vse, as fugitiues fra his lienes lawis for the said cryme.

Forging and Counterfeiting, and Uttering Base Coin.

Nov. 24.—JOHNE MURRAY, Leiche,² in Dunfermling ; Walter Murray, his brother, in Creiff ; Williame Thomefounne, synyth, in Cowper-in-Angus ; Williame Sympfounne, seruitour to Arthour Synyth, in Quhitfeild ; and Thomas Frazer, in Banff.

¹ See Jul. 4, 1599.

² Physician.

Dilatit for airt, pairt, red and counsale of the tressonabill fforgeing, ffalfefeing and counterfitting of false cunzie, sik as false ten-schilling peiceis, twa-mark-peiceis, fyve-pund-peiceis, fyftie-schilling-peiceis, hat-peiceis, pistulettis and crownis.

ASSISA.

Johne Irving of Kynnok, Adame Wilfoune goldfmyth thair, Johne Mosman y^r, merchand thair, Hew Lyndefay goldfmyth in Ed^r, Andro Naper merchand in Ed^r, Danid Meldrum of Segie, Robert Fairlie goldfmyth thair, W^m Williamfoune merchand in Ed^r, George Mowtray of Seyfeild, R^t Thomfoune goldfmyth thair, James Crawford goldfmyth thair, W^m Stalker goldfmyth thair (Ed^r), Johne Lamb goldfmyth thair, Archibald Geddes merchand thair, Thomas Somervell maltman thair.

The aduocat takis instrumentis of the Confessioun of *Johne and Walter Murrayis*, of the first, secund and thrid poyntis of thair Dittay, and of *Williame Sympfounis*.—The aduocat takis instrumentis of *Williame Thomesounis* Confessioun of the fforgeing of the yrnis for prenting of false pistulettis; and that he was airt and pairt thair of.—The aduocat takis instrumentis of *Thomas Fraseris* Confessioun of his knowlege of the cunzeing of the counterfit money, contenit in his Dittay; and of the conceling of the samyn fra the Kingis Maiestie and his Justice.

The Justice producit the Warrant vnderwrittin, ordaning the samyn to be insert in proces; quhair of the tennour followis.

REX,

LORD JUSTICE and Justice-Clark, We greit 3ow hairtly weill. It is oure will, and be pir presentis, We defyre 3ow, concerning Johne Murray, brother to Walter Murray, tane laillie in Duunfermling, and dilatit of ffals cunzie; becaus he first confessit and declarit pe veritie of his awin and his complices proceding pairin, he being convict with his complices for pe said cryme; that 3e moderat the dome aganis him, in maner and forme as efter followis, to wit, that he be Bancist pis our realme of Scotland, and decernit to pass furth of pe same, within pe space of aucht dayis, and never to returne pairto agane, during all pe dayis of his lyfytyme, vnder pe pane of deid, to be execnte aganis him with all rigour: And pis to be insert in 3our sentence; ffor the quhilk, pir presentis salbe 3our Warrant. Subferyuit with our hand, Att Halyrudehous, the xxiiij day of November, 1599.

(Sic subscribitur) JAMES REX.

Follow the DITTAYS against the whole Persons on Pannell.

JOHNE MURRAY and WALTER MURRAY, being enterit on pannell, Dilatit and accussit of the crymes vnderwrittin, to wit, ffor the tressonabill outing¹ of fals and adulterat money, sik as x f. peceis and twa mark peceis, amangis our souerane lordis liegis, to the similitude and likenes of his hienes trew money; quhilk fals money, extending to the sowme of xxiiij lib. money, the said Johne resflauit fra George Drummond, saidler in Banff, to be outit twa 3eir syne or thairbye; quhair of he delyuerit ane pairt to the said Walter Murray, his brother, and thay passit throw syndrie partis of the cuntrie about Banff and Turra, to haif outit the famin; and haifing onlie outit ane few nowmer thair of, becaus thay war sa conspeckell,² that thay culd nocht pass; the said Johne come bak to the said George Drummond, and delyuerit sa mony thair of as was nocht outit to him agane: Be outing and conceling of the quhilk fals cunze, thay and ather of thame committit Tressoun. ITEM, lykewyis for the tressonabill outing of ffals and adulterat cunze, sik as fals fyve-pund peices, and fyftie-schilling peiceis, and disfaueing of our souerane lordis liegis thairbye; quhilkis Hans Johnstoune, Fleming and Thom Reid, his prenteis, of thair speciall counsale, directionne, outred and furneissing, about twa 3eir sen-

¹ Vending, circulating, putting out, uttering.

² Kenspeckle, conspicuous, glaring.

fyne or thairbye, prentit in the places, (and) to the nowmer following, to wit: In the tonne of Kyn-cardyn, fyftie foure falſe fyftie-ſchilling peiceis: *Item*, in the Eift-ferrie of Dundie, xxxij fyftie-ſchilling peiceis; quhilkis thay and the ſaid Hans pairtit amangis thame; committand thairbye Treſſoune.—*ITEM*, The ſaid Johne and Walter Murrayis, and WILLIAME SYMPSONE, ſeruitour to Arthour Smyth, in Quhitfeild, being indytit and accuſit, for the treſſonabill ſforgeing and conceling of xiiij ſcoir of falſ Hæt-peiceis, Crownis and Piſtuletis, quhilk the ſaid ARTHOUR SMYTH and Williame Sympſoune, of the ſpeciall command and counſale of the ſaidis Johne and Walter Murrayis, cunzeit about zule¹ laſt was, of braſs, and delyuerit the ſamyn to the ſaid Walter, quhilk he brocht away with him to Dunfermling; ffor the hundreth quhairof, he ſuld haif payit to the ſaid Arthour the ſowme of ten markis: And becaus he had na money to pay thairfoir, he left with him ane plaid and ane pair of ſchankis, and promeiſt to gif him ane yrne ſindie;² quhilk wes done be the knowlege of the ſaid Johne Murray and Williame Sympſoune, quha treſſonablie conceillit the ſamyn; and ſwa, committit oppin and maniſt Treſſoune.—WILLIAME THOMESOUNE, ſmyth in Cowper-in-Angus, being indytit and accuſit of art, pairt, red and counſale of the treſſonabill ſforgeing, cunzeit and prenting of falſ Piſtulettis, quhilkis George Drummond, ſaidler, and Arthour Mwle, gude-brother to the ſaid Williame, of the ſaid Williamis knowlege and conceilling, about twa zeir ſen fyne or thairbye, treſſonablie ſforgeit of braſs, in the burch of Perth, and vpoune the Craigis of Kynnowle; ffor outred of the quhilk cunzie, the ſaid Arthour forgeit ane pair of yrnes for the prent of the ſaidis Piſtulettis, quhilk the ſaid Arthour Moule gravit about ane yeir fyne or thairbye; and ſwa, the ſaid Williame treſſonablie conceillit the ſamyn.—Lykeas, THOMAS FRASER, ſtokker of Piſtulettis in Banff, being indytit and accuſit of the treſſonabill conceilling of the ſforgeing, prenting and counterfitting of xxx falſe Piſtulettis of braſs, to the ſimilitude of trew Piſtulettis, quhilkis Hanſe Johnſoune, Fleming, and vniql Thomas Lathreis, cherurgean in Perth,³ and George Drummond, ſaidler, than indweller in Banff, about thre yeir ſenfyne or thairbye, cunzeit and prentit in the ſaid Thomas buith in Banff; quhilkis Piſtulettis the ſaid Thomas ſaw vngylt; be conceilling quhairof he committit Treſſoune.

VERDICT. For the quhilkis crymes, the ſaidis fyve perſonis, and ilkane of thame, was put to the knowlege of ane Aſſyis, of the perſonis (above) writtin, &c.; and, efter cheiffing of the ſaid George Mowtray of Seyfeild chancellor, thay reſſonit and votit vpoune everrie poynt of the ſaidis crymes; and being thruchlie avyſit, efter longe reſſoning and voiting thairin, &c. thay ſtand, pronunceit and declarit the ſaid Johne and Walter Murrayis, Williame Sympſoune, Williame Thomſoune and Thomas Fraſer, to be ffylit, culpabill and convict of the crymes of Treſſoune *reſpectiue* aboue writtin.

SENTENCE. For the quhilk cauſe, the ſaid Juſtice-depute, be the mouth of Robert Galbrayth, dempſtar of the ſaid Court, Ordanit the ſaid *Walter Murray*, *Williame Sympſoune* and *Williame Thomſoune*, to be tane to the Caſtell-hill of Edinburgh, and thair to be wyrreit at ane ſtaik, and thair bodeis to be brunt in aſſes; and all thair landis, heritageis, takis, ſteidingis, rowmes, poſſeſſionis, to be forfeitit, eſcheit and inbrocht to our ſouerane lordis uſe: AND als, at command of our ſouerane lordis Precept, aboue written, Ordanit the ſaid *Johne Murray* to be Baneift this realme; and to paſs furth thairrof within aucht dayes; and nevir to returne agane within the ſamyn, vnder the pane of deid: Quhilk was pronunceit aganis the ſaidis perſounes for Dome. And continewit

¹ Yule, Chriſtmas. ² Stithy, a ſmith's anvil. ³ See his trial, Mar. 20, 1598. He was beheaded at the market-cross of Edinburgh, along with George Rattray, for manſlaughter.

the pronouncing of dome aganis the said *Thomas Frazer*, quhill he was forder avyfit thairwith.

‘Oker’ — Taking usurious Interest.

Dec. 4.—WILLIAM WILLIAMSON, merchand-burges of Edinburgh.

Dilatit of contravening of the Actis of Parliament, in taking of fyftene markis for the laue¹ of ilk hunder of foure hundreth markis, lent be him to Gylbert Maiftertoun and Johnne Mofman, merchandis burgeffis of Edinburgh ; committit at the feiftis of Whitfouneday and Martimes 1598, and Whitfouneday 1589 yeiris ; and for taking of fyftene markis for the lane of ilk hundreth markis of fourtene hundreth markis, lent be him to Williame Scott of Balwerie ; (thairby) committand oker.²—Continued to Feb. 8.

‘Oker’ — Taking usurious Interest.

Dec. 4.—MARGARET TINDALL (TINWALL), the relict of vmq^{le} Archibald Dowglas of Stanypeth.

Dilatit of Okeran, and contravening of the Actis of Parliament, in taking yeirle of tuentie markis for the annuel-rent of ilk hunder merkis of fewin hundreth merkis, lent be hir to Johnne Harlaw, as principal, Robert Scott and Johnne Bannatyne, burgeffis of Edinburgh, his cautioneris.—Continued to Feb. 8.³

[*Mr Robert Murray, Justice-Depute.*]

Slaughter.

Dec. 14.—ALEXANDER GUTHRIE, eldar of Kincaldrum, David Guthrie, younger of Kincaldrum, Johnne Rynd, younger of Kerse, Arthour Erfkyn, portioner of Auchterforfar, Gedeon Guthrie, in Lytill Lowre, Williame Guthrie of Langlandis of Guthrie, Alexander Guthrie, fear of that Ilk.

Dilatit of airt and pairt of the slauchter of vmq^{le} James Guthrie, sone to Alexander Guthrie (elder) of that Ilk ; committit in Junij lastbypast.

PERSEWAR, Mr Robert Lyntoune, Aduocat substitute.

The Justice continewis this mater to the morne ; and the Assyse comperand, war wairnit personalie to compeir the morne ; ilk persoun, vnder the pane of twa hundreth mark.

PERSEWAR, Mr Thomas Hammiltoune of Drumcarne, aduocat.

Dec. 15.—Continued to xvij of Dec. ; the Inqueist of new to compeir the said day.

Dec. 18.—Continued to the Justice-air of the sherefdome of Forfare, or soner vpoune xv dayis wairning.

¹ Loan, usage or interest.

² Usury, extorting usurious or unlawful interest for the use of money lent.

³ No farther proceedings are recorded.

**‘ The first Day of the Zeir appointit to be the first Day of Januar
zeirle.’**

[The following curious document, which was referred to in a Note to p. 1, (Mar. 15, 1568-9,) is now, for the first time, printed from the Records of the Privy Council. It was uniformly acted on throughout the kingdom after the first day of January, 1600.]

APUD HALIRUIDHOUS, *xvij Decembris, lxxxix*° (1599.)

THE KINGIS MAIESTIE and Lordis of his Secreit Counfall, vnderstanding, that, in all vtheris weill governit commoun welthis and cuntreys, the first day of the zeir begynis zeirle vpoun the first day of Januare, commounlie callit ‘ NEW ZEIRIS DAY ;’ and that this realme, onlie, is different fra all vtheris, in the compt and reckning of the zeiris : And his Maiestie and Counfall, willing that thair falbe na disconformitie betuix his Maiestie, his realme, and liegis and vtheris nichtbouris cuntreys, in this particular ; bot that thay fall conforme thame selffis to the ordour and custum obseruit be all vtheris cuntreys ; especialie, feing the course and seafoun of the zeir is maist propir and answereabill thairto, and that the alteratioun thairof importis na hurte nor preiudice to ony pairtie : THAIRFOIR, his Maiestie, with aduise of the Lordis of his Secreit Counfall, Statutis and Ordanis, that, in all tyme cuning, the first day of the zeir shal begin, zeirle, vpoun the first day of Januar ; and thir presentis to tak executioun, vpoun the first day of Januare nixtocum ; quhilk shalbe the first day of the I^m. and sex hundreth zeir of God : And thairfoir, Ordanis and Commandis the Clerkis of his lienes Seffioun and Signet, the Directour and Writtaris to the Chancellerie and Preuey Seall, and all vtheris Jugeis, Writtaris, Notaris and Clerkis within this realme, that thay and euerie ane of thame, in all tyme heirefter, date all thair decreittis, infestmentis, charteris, seafingis, letteris and writtis quhatsumeur, according to this present ordinance ; compting the first day of the zeir, fra the first day of Januare zeirle ; and the first day of the I^m. and Vj^e zeir of God, fra the first day of Januare nixtocum. And Ordanis publicatioun to be maid heirof, at the mercat-croceis of the heid burrowis of this realme ; quhairthrow, nane pretend ignorance of the same.

Slaughter.

Dec. 19.—WILLIAME M^cINTOSCHE of Esseich, Duncan M^cIntosche, sone to Lauchlane M^cIntosche of Donachtan, and others.

Comperit Mr Donald Campbell, and produceit our fouerane lordis lettres, deulie execute and indorsat, purchest be Allester M^cGregour of Glenfray, as Cheif and neir kynnisman to vinq^{le} Patrik M^cGregour, in Cadderlie, Johnne Hay of Vrchye, as brother, with the kyn and freindis of vinq^{le} Williame Hay ; and siclyke, Johnne M^cConeill V^cIntailzeour, sone to vinq^{le} Donald M^cIntailzeour, in

Barglas, and Donald M^cGilleis, as fader to vmq^{le} Dowgall M^cGilleis ; to tak fouerte of Williame M^cIntofche of Effeich, Duncan M^cIntofche, fone to Lauchlane M^cIntofche of Donachtan, and diuers vtheris perfonis thairin contenit ; be the quhilkis Lettres, the faidis perfonis ar, vpoune the fevint day of December instant, denunceit rebellis, and put to the horne, in default of finding of fouerte, to haif comperit befor the Justice or his deputis, to haif vnderlyne the law for the flauchter of the faidis vmq^{le} perfonis. Quhairvpoune he askit actis and instrumentis.

Shooting of Hagbutts and Pistolets — Ambesetting the Highway.

Dec. 27.—ALEXANDER BLAIR of Bagray.

Dilatit for beiring and weiring of hagbuttis and pistulettis, contrair the tenour of the Actis of Parliament, and vmbesetting of the hie gait and passage to Johne Creychtounne of Inuernytie, in his cuning hame to his duelling-place of Inuernytie, and schuting of hagbuttis and pistulettis at him ; committit vpoun the xix day of September lastbypast.

Williame Bonar of Rossye become plege and fouertie for Alexander Blair of Bagray, that he fall compeir before our fouerane lordis Justice or his deputis, the thrid day of the nixt Justice-air of the sherefdomme of Perth, or soner, vpoune xv dayis wairning, and vnderlye the law, &c.

Hamesucken — Slaughter.

Jan. 8, 1600.—THOMAS GAIRDYN of Legatstounne.

Dilatit of airt and pairt of the slauchter of vmq^{le} Alexander Guthrie of that Ilk ; committit in the moneth of October, the yeir of God, I^m.V^c.lxxx and fëwin yeiris, be way of Hame-suckin, belyde the Place of Inuerpeffer, vpoune sett purpois, provisiounne, auld feid and foirthocht felony.

PERSEWAR, Alexander Guthrie, younger of that Ilk.

The pannell producit our fouerane lordis Remissiounne vnder the Greit Seill, of the daitt, att Aberdene, the first day of August, I^m.V^c. fourseoir and nyne yeiris, grantit be his hienes for the said cryme, and tuik him thairto : Quhilk was admittit be the Justice-depute, quha ordanit him to find cautionn and fouirtie to satisfie the partie, as law will : Lyke as, the said Thomas, for obedience of the said ordinance, stand Williame Stewart of Seytoun, George Gardin of Latounne, and him selff.

Hamesucken — Slaughter.

Jan. 8.—DAVID GAIRDIN, brother-german to Thomas Gardin of Legatstounne.

Dilatit for airt and pairt of the said crime, was adjudged to be denounced rebel, and put to the horn, for non-appearance to vnderlie the law ; and David Peirfoun of Cairny, his cautioner, was amerciati in the pain of 100 marks.

[*Mr Williame Hairt, Justice-Depute.*]

Adultery.

Feb. 15.—ALEXANDER HAY of Dalgettie.¹

Dilatit for the cryme of Adulterie ; committit with Barbara Forbes, his alledgeit spous.

The Laird of Delgattie takis instrumentis of his entrie, and protestis for relief of his cautioner.

The Justice continewis to the xij of March nixtocum. Johne Frazer of Creichie becomes fouirtie, &c.

Forgery — Falsifying and counterfeiting a Charter, &c.

Feb. 15.—FYNLAY FERNIE, sone to vmq^{le} Alexander Fernie of Nig, Robert Immes, notare, and James Tarbart, wryter.

Dilatit of airt and pairt of the falsifeing, fforgeing and counterfitting of ane fals Chartour and Instrumēt of Seasing ; quhilk Chartour is alledgeit maid be vmq^{le} Alexander Ferne of Nig to vmq^{le} Alexander Ferne, his sone and apperand air, &c.

[The Dittays are each inserted at length in the Record. That against James Tarbet's only is here given, the others being little else than repetitions in point of form.]

DITTAY against James Tarbett.

JAMES TARBETT, Ye ar indytit and accusit, for being airt and pairt of the fforgeing, feingeing and counterfitting of ane fals Chartour, as maid be vmq^{le} Alexander Ferne of Nig to vmq^{le} Alexander Ferne, his sone and apperand air, of all and baill the fyve oxgait of land of Pitcalzean, twa oxgait of land callit the Quarter-land of Nig, with the fourt pairt of the kill thairof, and superioritie of ane oxgait of land in Meig, and of the Croftis callit M^cWaldene, M^cCoreis, Croft-cullin, Ballafinath, Smythifcroftis, Meringis and thair pertinentis ; daitit the xx day of Marche, the yeir of God 1st.V^o.lxxv yeiris, albeit writin be yow, and Johne Kennedie at your command, according to the haill tennour of the bodie thairof, within thir nyne or ten yeiris lastbypast, aff ane copie thairof in paper, delyuerit to yow be Johne Irving and Fynlay Ferne ; to quhome ye redelyuerit the said Chartour, writtin be yow, and at your command, as said is, in parchement ; to the effect, the samyn mycht be to thame ane principal Chartour ; the dait of the samyn beand ane pairt of the bodie of the Chartour, being fourtene or fyftene yeiris anterior to the vryting of the samyn : Lyke as, within thre dayes eftir the wryting of the said Chartour, ye saw Fynla Ferne, in Kait Thomas taverne, at the drynking of ane pynt of ryne with ane Johne Irving, subfryve the samyn with his hand, with the name of 'Alex^r Ferne,' his fader : Quhilk Chartour is improvin,² and declarit fals and feingeit aganis the said Fynla Ferne, *in foro contradictorio*, be the Lordis of Counsale ; and he ordanit to be pwneist in his perfun and guidis for the samyn ; quhairof ye are airt, pairt, red and counsale, and hes conceillit the samyn.

PERSEWAR, Mr Thomas Hammiltounne of Drumcarne, aduocat to our fouerane lord.

PRELOCUTORIS for James Tarbet, Mr Richard Spens, Mr Thomas Wilfounne.

Of the quhilk Dittay, the said James Tarbett become in our fouerane lordis will.

¹ See Nov. 25, 1598, &c.

² By Action of Reduction-Improbation on the ground of forgery, &c.

VERDICT. The Affyse, be the mouth of Thomas Inglis, in Paslay, chancellor, fand and pronounceit the saidis *Finla Fernie* and *Robert Innes* culpabill and convict of the crymes respectiue aboue writtin.

SENTENCE. The Justice-depute, be the mouth of Robert Galbraith, dempstar of the said Court, ordanit thame to be tane to ane Gibbet, besyde the mercat-croce of Edinburgh, and thair to be hangit quhill thay be deid ; and all thair movabill guidis to be escheit, &c.

Feb. 16.—ASSISA, *super Jac. Tarbet*.

Sir Jo ⁿ Creychtoun of Inuernytie,	William Hay of Linplum,	 Dunbar of Entirkyn,
Sir Ja ⁿ Edmeistoun of Duntraith,	Mr James Watfounne, portioner of	Gawin Hammiltounne of Roploch,
. Somervell elder of Cam-	Sauchtounne-hall,	Edward Maxwell of Tynwall,
nethan,	 Crawford of Beircroftis,	Awlay McCanlay of Ardincapell,
Sir James Maxwell of Calderwod,	Jo. Robertfounne of Smythstounne,	James Carmichaell of Pityfchaw.
Johne Blair of Bagillo,	Mr George Frazer in Edinburgh,	

Mr Thomas Hamiltounne of Drumcarne, aduocat to our souerane lord, produceit the Warrant vnderwrittin.

REX,

JUSTICE, Justice-Clerk and your deputis, We greit you weill. It is oure will, and We command you, that, vpoun ye sycht heirof, ye put James Tarbet, wryter, to the knowlege of ane Affyis, for ye cryme of falsset, confessit be him, in his Depositionne ; and efter his convictionne, that ye pronounce ye dome of hanging aganis him, and cause him immediatlie to be execute to ye deid ; As ye will answer to us vpoun your offices and obedience : Quhairanent, thir presentis falbe your Warrant. Subferyuit with our hand, At Halyruidhous, the xvj day of Februar, 1600.

(Sic subscribitur) JAMES REX.

VERDICT. The Affyis, be the mouth of thair chancellor, Sir James Edmeistounne of Duntraith, kny^t, fand, pronounceit and declarit the said James Tarbet to be ffylit, culpabill and convict of airt, pairt, red, counfall and conceling of the fforgeing, ffeinzeing and ffalseteing of the said Chartour, as is contenit in the accusationne aboue spacificit.

SENTENCE. To be tane to ane Gibbett, besyde the mercat-croce of Edinburgh, and thair to be hangit quhill he be deid ; and all his movabill guidis to be eschete, &c.

Slaughter.

Feb. 16.—WILLIAME CRAIG of Craigstounne.

Dilatit for airt and pairt of the cruell slauchter of vmq^{le} Patrik Forbes of Carnehill ; committit in the moneth of Maij 1579, on the landis of Carnehill, of fett purpose, prouisiounne and foirthocht fellounie.

For quhilk actioun the said Williame tuik him to his Maiesteis Respect, (Respite,) under his hienes Priuie Seill, At Halyruidhous, Februar xx, 1585 ; and ffund Patrik Lord Glamis, and him selff fouirtie, conjunctlie and feuerallie, to satisfie the parteis, conforme to law.

[*Mr William Haert and Mr Robert Murray, Justices-Deputes.*]

Abiding from the Earl of Angus' Raid at Dumfries.

Feb. 21.—GEORGE CAMPBELL of Cefnok,	{ Plegio, Daniele Cwninghame de Dalbeythe.
Johnne Schaw of Sornebeg,	Domino Haning.
George Lokart of Bar,	Archibaldo Lokert burgen de Ed ^r .
Mr Matho Rose of Haning,	{ Dischargeit, in respect provin he duellis in Glasgou, &c.
Johnne Wallace of Carnell,	Domino Lochnoreis.
David Blair of Edentoun,	Domino Corfbie.
Willame Dunbar of Entirkyn,	Domino Bar.
David Foullertoun of Corfbie,	Domino Edentoune.
Edward Wallace of Seweltoune,	Domino Carnell.
Hary Stewart of Barfimming,	Absent.
Willame Crawford of Lochnoreis,	Domino Carnell.
Hew Cwninghame of Laigland,	Jofias Stewart de Boningtoune.
Allane Lord Cathcart,	{ Continewit tertio Itineris xv dierum: Plegio, Joh. Cathcart de Carltonne.
Johnne Cathcart of Cairltoune,	Domino Ardmillene.
Johnne Dalrumpill of Stair,	Domino Lochnoreis.
Johnne Campbell of Shankiftoune,	Eodem.
Bernard Farguesoun of Kilcairren,	{ Dischargeit be the Thesaurar, in respect of his aige, with consent.
Hew Kennedy of Girvanmanis,	Absent.
Johnne Corry of Kelwod,	Domino Lochnoreis.
Hugh Kennedy of Bennene,	Domino Barganye.
Walter Mwir of Cloncaird,	Eodem.
Thomas Kennedy of Ardmillane,	Domino Carltonne.
Walter Kennedy of Knokdone,	Absent.
Johnne Kennedy of Blaquhane,	{ Gilberto Kennedy de (Bargany?) tertio Itineris xv dierum.
Matho Stewart of Dunduff,	Domino Auchindrane.
Johne Mure of Auchindrane,	Domino Dunduff.
Mr Lambert Kennedy of Kirkmichell,	Absent.
Johnne Davidfoun of Pennyglene,	Domino Kelwod.
Fargus Kennedy of Knokda,	Domino Carltonne.
Johnne M ^c Alexander of Dalreoch,	Domino Knokda.
Gylbert Kennedy of Bargany.	Domino Carltonne.

Dilatit for abyding fra the Leutennentis Raid of Drumfreis, appointit be Archebald Erll of Angus to haif convenit thairat.

Comperit Johne Halyday Aduocat, and produceit the Warrant vnderwrittin, for *Girvanmanis*, (*Hew Kennedy*), and allegeit that the Justice could nocht vnlaw his cautioner, nor adiudge him selff to the horne.

REX,

THESAURER, Aduocat, Justice, Justice Clark with your deputtis, We greit you weil. Vnderstanding, that our rycht traift coung and counsalour, Andro Lord Vchiltrie, his kyn freindis, men, tennentis, seruandis and dependaris wer, vpoun the respect of James Dowglas of Torthorwald being in the company of our rycht traift coung the Erll of Angus our Leutenent for the tyme, exemit frome his jurisdiction and obedience of his Proclamatiounis publeischit for convening of our subiectis within the boundis of his Leutenandrie; and that nochtwithstanding ye our saidis Thesaurer and aduocat hes raist our vperis lettres at your instance, and amangis vperis hes causit charge Hary Stewart of Barskymming and (Hew) Kennedy of Girvanmanis, twa speciall kynnismen, freindis to our said coung the Lord Vchiltrie, to compeir before you our Justice and your deputis, vpoun the xxj day of Februar instant, to vnderly our lawis within our Tolbuith of Ediuburgh, for alledgeit nocht obedience of our Proclamatioun, chargeing subiectis within the boundis of Kyle, Carrik and Cwninghame, to meit our seid Leutenant att Drumfres, vpoun the . . . day of . . . lastbypast, for the furtherance and advancement of our seruice, att our West Bordour. It is pairfoir our will, and We command you, our said Thesaurer and aduocat, pat vpoun the fycht heirof, ye pass frome the persuit of the saidis Hary and (Hew) for the said caus, and deleit pair names furth of the criminall summondis intentit att your instances aganis pame. And lykewyise, that ye our Justice and Justice Clark dispence with pair non-comperance of the said personnes befor you at the said dyett; and on nawyis vnlaw or proceed aganis pame or pair cautioneris, for pair nocht comperance att the same dyett, nochtwithstanding of ony vper command, gewin or to be gewin to you in the contrar; as ye and ilkane of you will be answerable to us vpoun your office and obedience; Quhairanent þir presentis fallbe your Warrant. Subscryuit with our hand, Att Halyruidhous, the . . . day of Februar, 1600.

(Sic subscribitur)

JAMES R.

MONTROISE CANCELLARIUS, LENNOX, R. COKBURNE, JO. PRESTOUNE, FYVIE.

The said Johne Halyday produceit ane Letter subscryuit be the King and Counfall, discharginge the Justice of all proceeding aganis *the Laird of Caprintoune*, &c.

WE vnderstanding that our louittis, William Cwninghame of Caprintoune and Daniell Cwninghame of Dalbeyth, being chargeit be vertew of Proclamatioune, to haif mett our rycht traift coung, Williame Erll of Angus, our Leutenent and Wardane of our West Marcheis, att Drumfres, or sic vper pairtis contenit in our said Proclamatioun, for persuit of the disobedient personis within our said Wardanrie, in the moneth of Februar, 1^m.Vc.lxxxxvij 5eiris: And pat for obedience pairof, and command of our said Proclamatioune, thay addresst pame selffis in weirle maner with pair freindis and seruandis to our said raid; and James Dowglas of Torthorrell, being our rebell, and lying att our horne, for the slaughter of our vmq^{le} coung, James Stewart of Newtonne, and pair neir kynnisman, being þan in company att the said raid with our said Leutenent; swa that the saidis Williame Cwninghame of Caprintoune, George Campbell of Cefuok, nor the said Daniell Cwninghame, could nocht guidlie remane att our said raid, (the said James Dowglas being in pair company): Quhairvpoun thay haifing than menit pame vnto us, We, for eschewing of gritar inconuenient, than faithfullie promittit *in verbo principis*, and gave licence to pame, pair freindis and seruandis, to pas hame fra our said Raid, and that thay sould pairrestir, att na tyme addres pame selffis to ony raid with our said Leutenent, (the said James Dowglas being in company with him,) bot that thay sould remane att hame, and incur

na skayth nor danger pairthrow.¹ And als, that the saidis Williame, George and Daniell, being lykewyis chargeit agane, to haif mett with our said Leutenent att our said burch of Drumfreife, vpon þe xxij day of September lastbypast, (with quhom the said James Dowglas wes þan in cumpany,) swa that thay mycht not addres þame selffis pairto: Thairfoir, and according to our said promeis, we haif frelie Remittit, and be þir presentis Remittis the saidis Williame Cwninghame, George Campbell and Daniell Cwninghame þair kyn, freindis and seruandis of all offence, cryme and panis committit be þame, for abyding fra þe saidis raidis or ony of þame; Dischargeing heirfore our Thesaurer, Aduocat, Justice, Justice-deputis and vperis officeris quhatsumevir, of all calling, atteiching, areisting, poinding, vulawing, trubling or intrometting with þe saidis personis, thair freindis or seruandis, or ony of þame, for abyding fra þe saidis raidis or ony of þame, and of þair offices in þat pairt for ewir; nochtwithstanding ony lettres, proclamatiounes and charges direct pairnant: Quhairanent and haill panis contentit pairin, We haif dispensit, and dispensis be þir presentis. Subferyuit with our hand, Att Halyruidhous, the xvj day of Februar, 1600. (Sic subfcribitur) JAMES R.

LENEX, MONTROISE, CASSILLIS, VCHILTRIE, FYVIE, BLANTYRE, SECRETARIUS.

The Justice continewis to gif anfuere to the Kingis twa Lètteres produceit, to the morne.

It is allegeit na proces aganis *the Laird of Blarquhan*, in respect of the Leutenentis Licence produceit, to remane fra the Raid; and that he had xxiiij personis dependeris at the Raid.

WE WILLIAME ERL OF ANGUS, Lord Dowglas and Abirnetbie, Lieutenant to his Maiestie our þe Eist, West and Middill Marchis of Scotland anent Ingland, be þe tennour heirof gewis and grantis Licence and libertie to þe rycht honourabill John Kennedie of Blaquhane, elder, to remane and abyde att hame fra our Raid and Proclamatioun, quhilk is proclaimeit be ws to convene att Drumfreis, the xxij day of þis instant of September, and pairestir to pass forwart with ws towardis þe Bordouris, and pair remane, with xx dayis prouisioun, according to our Proclamatioun: Quhilk we be þis present promittis and grantis þis our Licence to þe said John Kennedy of Blaquhan to remane and byde at hame fra our said Raid and Proclamatioun; And that in respect of his present diseise: Be þis present, subferyuit with our hand, Att Drumfreis, the xvij day of þis instant of September, a thousand fyve hundredth fourscore and nyntene zeiris; befoir þir witneffis, Williame Bannatyne of Corhous, Williame Cwninghame tutour of Bonytoun.

(Sic subfcribitur)

W. ANGUS, LEU^r.

It is allegeit be *Mr Matho Roise of Haining*, that he wes nocht subiect to the Proclamatioun, becaus he duelt the tyme of the Proclamatioun, and ane zeir befoir and senfyne in Glasgw; and he hes nocht ane hous in Kyle.—The Aduocat allegis the contrar: In respect of the summondis, he fowld be put to ane Affyse and thai fould cognos thairvpoun.

It is allegeit for *Bernard Farguesoun*, that he is past the age of the Proclamatioun: Quhilk alledgeance wes admittit be the Justice, and he dischargit and put away.

¹ This Letter affords a striking illustration of the insecure and disturbed state of the country, and the weakness of Government. Douglas of Torthorwald, residing so near the Borders, seems to have been too powerful a subject to be sued, even for the Slauchter of a Steuart, 'cousin to the King.' Although at the *Horn* for this Slauchter, the Lieutenant scruples not to accept of the assistance of this rebellious subject to restore peace on the Borders, instead of delivering him up to justice for his crimes!

It is allegeit for *the Laird of Sewelton*, that he hes nather land nor heretage; and thairfoir, nocht subiect to the Proclamatioun.—The Aduocat allegis that he sould pafs to ane Affyse.

The Pannell cummis in (the King's) Will; except sa mony as produceit the Kingis Warrant.

Feb. 22.—The quhilk day comperit Sir Hew Campbell of Terringeane, knycht, and produceit our souerane lordis Will; and defyrit it to be infert and registrat, &c.

THE KINGIS Will for the Barrounis of Kyle and Carrik.

REX,

JUSTICE, Justice Clerk and 3our deputis; We greit 3ow weill. Forfamekill as the personnes vnderwritin, thay ar to say, Johnne Schaw of Sornebeg,¹ &c. become laillie in our will, for pair remaning and byding att hame fra pe oist² and Raid proclameit and appointit to haif mett with our Leutennent in Drumfreis, vpoun pe . . . day of September last. Thairfore, We haif declarit oure will as followis, to witt: That We haif Renunceit and dischargeit, and be pir presentis renunceis and dischargeis all actionne and caus, criminall and ciuile, quhilk We had, haue, or ony wyis may haue, move or perfew, aganis pe saidis personnes for pe caus foirsaid: And Remittis and forgewes pame frelie for ewir: And Ordanis this our declaratioun of our Will, to be als effectuell for pair suirtie in tyme cuming, as gif thay had particuler Remissiounis pairvpoun vnder our greit feill. Oure will is heirfore, and We command 3ow to pronunce and delyuer pis oure will, giudiciale; and caus thir presentis be actit and registrat in our buikis of Adiornall: As also, that 3e deleit furth of our saidis buikis, pe Act quhairby Hew Kennedy in Balloch wes vnlawit for nocht entrie of Walter Kennedy of Knokda, minor, before 3ow for pis fame caus: As 3e will ansuer to ws pairvpoun: Quhairanent thir presentis falbe vnto 3ow ane warrant. Subferyuit with our hand, Att Halryuidhous, the xxij day of Februar, 1600.

(Sic subscribitur)

JAMES R.

Quhilk the Justice causit publeife Giudicillie, and declarit to be our souerane lordis will, as is aboue writtin: Quhairvpoun the personnes on pannell present for the tyme askit actis and instrumentis.—The Justice admittit the Letteris produceit, &c.

[*Mr Williame Haint, Justice-Depute.*]

Slaughter.

Mar. 4.—WILLIAME STEWART brother (german) to the Lord Vchiltre, and Williame Stewart sone naturall to Sir Williame Stewart of Carstairs, kny^t.

Mawife Aikman, the relict of vmq^{le} Robert Cathcart, (wryter in Edinburghe) produceit our souerane lordis lettres deulie execute and indorfat, purchest be hir selff with the bairnis and kyn and freindis of the said vmq^{le} Robert, for charging of Walter Mure of Cloncaird, as cautioner and fouerte for Williame Stewart brother to the Lord Vchiltre, and Williame Stewart sone naturall to Sir Wil-

¹ It has been thought unnecessary to repeat the names.

² Host, army.

liame Stewart of Carstairs, kny', this day, &c. to vnderlye the Law for the slauchter of the said vmq^{le} Robert, (committit the third day of Junij, 1590 :) Quhairvpoun scho askit instrumentis and protestit for relief of Allane Cathcart of Drumjowan, cawtioner for reporting of the saidis Lettres to this day.

The Justice (in obedience to a Warrand from the King) continewis this dyet to the morne, the fyft day of Marche instant.¹

Mar. 5.—Continewis the mater to the xxix day of Maij.—Williame Stewart of Seytoun becomes pledge and fouirtie that thay fall compeir, &c.

Maij 29.—The persones on pannell takis instrumentis of thair compearance, and protestis for releve of thair cawtioune; and als, in respect that na partie comperit to persew thame, produceit the Extract of our sowerane lordis Remissionne, quhairof the temmour followis.

PRECEPTUM REMISSIONIS *Willelmi Stewart fratris Andree domini Stewart de Vchiltre, et Willelmi Stewart filij quondam domini Willelmi Stewart de Houstounne, pro arte et parte Interfectionis quondam Roberti Cathcart scribe die mensis anno domini, I^m.V^o. nonagesimo commissi; ac pro omnibus actione et crimine que inde sequi aut prenominationis personis inde quouifmodo imputari poterint, &c. Apud Falkland, decimo quarto die mensis Augusti, anno domini millesimo quingentesimo nonagesimo nono.*

HEC est vera copia abbreviationis, Precepti Remissionis superscript. content. in libro Secreti Sigilli f. d. n. regis extract. de eodem copiat. et collational. per me DANIELEM HAY, notarium publicum ac ejusdem Secreti Sigilli scribam.

Slaughter.

Mar. 8.—ROBERT TULLOCH of Tannoquheis, and Alexander Tulloche, his sone and apperand air.

Dilatit for air and pairt of the slauchter of vmq^{le} Williame Dowglas sone to Williame Dowglas of Erlisfynll.²

Comperit the Aduocat, and produceit ane Precept direct fra his Maiestie; quhairof the temmour followis.

REX,

MR THOMAS HAMMILTOUN of Drumcarne our aduocat. It is our will, and We command 3ow, that 3e persew our criminall letires, rasit att 3e instance of James Dowglas, and remanent brep^s, kyn and freindis of vmq^{le} Williame Dowglas, sone to Williame Dowglas of Erlisfynll aganis Alexander Tulloch, sone and apperand air to Robert Tulloch of Tannochie, for vnderlying of our lawis for 3e slauchter of 3e said vmq^{le} Williame Dowglas: And that 3e insist with the saidis persewaris, in persuit of 3e saidis Lettres the aucht day of March instant, or ony vper day or dayes neidfull and convenient; keband 3ir presentis for 3our Warrand: And this 3e faill nocht to do, nochtwithstanding of ony command gewin or to be gewin in 3e contrar. Subferyuit with our hand, Att Halyruidhous, the aucht day of March, 1600.

(Sic subseribitur)

JAMES R.

Comperit Mr Johne Scharpe aduocat, and produceit ane Warrand subferyuit be his Maiestie; quhairof the temmour followis.

¹ See May 18, 1604.

² See Jan. 2, and Mar. 8, 1598.

REX,

JUSTICE, Justice Clark and your deputis, We greit ȝow weill. Forſamekill as We ar informit that Robert Tulloch of Tannoquhie is chargeit as cautioner for Alexander Tulloch his ſone, to enter and preſent the ſaid Alexander, vpoun þe aucht day of March, befor ȝow, to vnderly our law for alledgeit air and pairt of the ſlauchter of vmq^{le} Williame Dowglas, ſone to William Dowglas of Erlifmyll. It is our will, and We command ȝow, for diuers cauſſis moving ws, to ſuffer and permitt the ſaid dyett to the ſaxtene day of Maij nixt; and that ȝe deſist and ceis fra all calling, vnlawing or proceeding aganis the ſaid Robert Tulloch, or aganis the ſaid Alexander Tulloch his ſone, the ſaid day, for pair nocht comperance, Quhairanent we diſpens be þir preſentis, diſchargeing ȝow pairof, and of your office in þat pairt; and that nochtwithſtanding ony vpir command or Warrant, gewin or to be gewin to ȝow on þe contrar: As ȝe will anſuer to Ws vpoun your obedience. Subſcryuit with our hand, Att Halyruidhous, the aucht day of Mairch, 1600.

(Sic ſubſcribitur)

JAMES R.

Comperit the Gudeman of Erlifmyll, togidder with Mr Thomas Hamiltounne, and produceit ane vther Warrant ſubſcryuit be his Maieſtie; quhairof the tenour followis.

REX,

JUSTICE, Justice Clark and your deputtis, We greit ȝow haertlie weill. It is our will, and We command ȝow, that incontinent eftir þe ſycht heirof, ye proceed and miniſter in þe actionne and caus perſewit att þe inſtance of þe kyn and freindis of vmq^{le} Williame Dowglas, ſone to Williame Dowglas of Erlifmyll, the aucht day of March inſtant, aganis Alexander Tulloch, apperand of Tannocheis, and his cautioner, for þe crewall ſlauchter of þe ſaid vmq^{le} Williame Dowglas; and that but ony prorogatioun, continewatiounne or delay to be grantit; and that nochtwithſtanding of ony Precept or command, purcheft or to be purcheft, in þe contrar heirof, Quhilk We annull be þir preſentis. Subſcryuit with our hand, Att Halyruidhous, the aucht day of March, 1600.

(Sic ſubſcribitur)

JAMES R.

The ſaid Mr Thomas Hamiltoun of Drumcarne aduocat lykewyis alledgeit, that the laſt Precept ſould be admittit, in reſpect of the Act of Parliament, deſyring juſtice to be miniſtrat; and that the Precept produceit be Mr Johnne Scharp aucht nocht to be admittit, in reſpect it is contrar the Act of Parliament, and that my Lord of Angus declarit that it wes his Maieſteis will that the laſt Precept ſould tak place, ſeing that he at the granting of the fyrſt wes wrangullic informit.

The Juſtice-Depute, mynding to haif continewit the mater to Tyiſday nixtocum, quhill the Kingis Maieſteis mynd wes knawin, ordanit Mr Johnne Scharp, producar of the Precept for Robert and Alexander Tulloch, to find caution for the entrie of the ſaid Alexander Tulloch the ſaid day; quha refuſit to find the ſaid caution: And in reſpect thair of, Ordanit the ſaid Robert Tulloch to be vnlawit for nocht entrie of the ſaid Alexander Tulloch his ſone; and the ſaid Alexander to be denunceit rebell and putt to the horne.

Adultery.

Mar. 12.—ALEXANDER HAY of Delgatie.¹

¹ See Nov. 25, 1598, Feb. 15, 1600, &c.

Dilatit for the cryme of Adulterie, committit with Barbara Forbes his allegeit spous.

Continued to July x. Johne Frissell of Creichie becomes plege and fouertie.

Privileges of the Faculty of Advocates — Not liable to pass upon Assises.

Mar. 12.—MR JAMES M^cGILL of Rankelowr-Nethir, Aduocat, allegeit, that becaus he is ane ordinar Aduocat, lawfullie admittit be the Lordis of Coun-fall, with all privilegis and immunitis; thairfoir he aucht nocht to pass vpoun ony Inqueist: And for verificatioun thairof, remittit the samyn to the notorietye of the Juge and haill memberis of Court: Quhilk, the said Juge acknowlegeing to be of veritie, thairfoir hes declarit and declairis, that the said Mr James is frie fra all Assyffis, and aucht nawayse to be vnlawit for his absence thairfra at ony tyme heirefter, during all the dayes of his lyf tyme, in respect of the Privilege of his said Office.—Quhairvpoun the said Mr James askit instrumentis.

Slaughter.

Mar. 12.—ANDRO MURRAY of Balwaird and Anthon Murray his ferwand.

Dilatit of airt and pairt of the Slauchter of vni^q^{le} David Lundie, sone to Mr George Lundie of Gorthie; committit vpoun the xxv of March 1598 yeiris, be-tyde Inglis-Tarbert, vpounne sett purpoise, provisiounne, and foirthocht felonye.

PERSEWAR, Walter Lundie, as brother.

The Justice, with consent of partie, continewis this mater to the morne, the xiiij of March instant, &c.

Mar. 13.—Sir Johne Creychtounne of Inuernytie, as cawtioner, was vn-lawit and amerciast for nocht entrie of the saidis perfounes, viz. for Andro Murray, in the pane of Ane thousand markis, and for the said Anton, twa hundreth markis: Lyke as, the Justice-depute adjudgeit the saidis Andro and Anthon to be denunceit our souerane lordis rebellis, &c. and all thair movabill guidis to be escheit, &c.

[*Mr William Haert and Mr Robert Murray, Justices-Deputes.*]

Slaughter in a Single Combat or Duel.

Jun. 5.—ROBERT AUCHMOWTIE cherurgeane, burges of Edinburghe.

[THE Editor has thought this case of so much importance, as to demand the insertion of all the legal objections and arguments of both parties, which fortunately have been preserved at considerable length. The Case of Auchmowtie, is the earliest instance preserved on Record, of a party committer of Manslaughter, in a Duel, or 'Singular-Combat,' suffering death; where nothing unfair was proven by the public or private prosecutor. It thoroughly illustrates the state of the Law and practice, and the opinions then entertained, by the most eminent Scottish lawyers and statesmen, on this interest-

ing subject. The ancient Law, and especially the practice, relative to Criminal Trial for single combats, seem to be now imperfectly understood, owing perhaps, in some measure, to the obscure state of the Records; for few would choose to encounter the labour, or could afford the time, necessary to be expended in examining the Books of Adjournal, merely for the purpose of illustrating an individual case. Although the arguments are somewhat prolix and redundant, it was deemed best to give them in the precise form in which they stand in the Record.]

Dilatit, of airt and pairt, of the Slauchter of vmq^{le} James Wauchop, sone to George Wauchop of Gleghorne (Clegghorne, burges of Edinburghe); committit the xx day of Apryle lastbypast.¹

PERSEWARIS, George Wauchop of Gleghorne, fader to the defunct; Mr George Wauchop, brother; Mr Thomas Hammiltoun of Drumcarne, Aduocat.

PRELOQUUTOURIS for the pannel, Mr Johne Scharpe, Mr Alexander King.

Mr Johne Scharpe and Mr Alexander King produceit ane delyuerance of the Lordis of Couufall, purchest at the instance of Robert Auchmwtie; quhairbye thay ar chargeit to compeir this day, befor the Justice or his deputis, to procure² in defence of the said Robert, for the slauchter of the said vmq^{le} James: Quhairvpoune thay askit instrumentis.

The persfearis produceit the Dittay underwritten.

DITTAY against the pannell.

ROBERT AUCHMWTIE cherurgeon, burges of Edinburghe, ye ar indytit and accusit, fforfamekill as ye, haifing confautit ane deidlie hatrent and malice aganis vmq^{le} James Vauchope, sone to George Vauchope of Gleghorne, merchand burges of Edinburghe, laitlie, vpoune the xix day of Apryle lastbypast, tuke on the Singular-Combat with the said vmq^{le} James, but³ licence of our fouerane lord,

¹ The following account is given by George Birrell, in his 'Diarey,' p. 48. 'The 2 of Apryll, being the Sabothe day, Robert Auchmuttie, barber, ('barber-chirurgeon,') flew James Wauchope, at the Combat, in St Leonards Hill; and vpone the 23, the said Robert put in ward in tolbuthe of Edinburgh. And in the maine tyme of hes being of ward, he hang ane clok without the window of the irone hous, and ane wther within the window thair; and faying, that he wes feik and might not fie the licht. He had *aqua fortis* continuallie feithing at the irone window, quhill at left the irone window wes eittine throw; fwa, vpone a morneing, he caufit his prentes boy to attend quhen the toun-gaird fould haue deffolvit; at quhilk tyme the boy wattit on, and gaue his maister ane tokine that the said gaird wer gone, be the schaw or waiff of hes hand curche. The said Robert hang out a tow, quhairon he thoct to haue comeit doune: The said gaird spyit the waiff of the hand curche; and fwa the said Robert was disappointit of his intentione and devyfe. And fua, on the 10 day, he wes beheidit at the Croce upone ane scaffolt.'

² To act as Procurators, or Advocates, in defence of the Pannel.

³ Without. It was by no means unusual, in these turbulent times, for such licenses to be granted by the King, both in exercise of his ancient Feudal prerogative, and as the only means which could then be devised for preventing bloodshed to a more frightful extent. Only a few years before, a remarkable instance is recorded by Birrel, Mar. 15, 1597. 'Ane fingill Combat fochin betuix Adame Bruntfeild and James Carmichaell. The said Adame Bruntfeild challengeit James Carmichaell for murdering of his vmq^{le} brother Stephen Bruntfeild, Capitane of Tantalloun. The said Adame *purscheit ane Licience* of his M. and faucht the said James on Barnbowgall Linkis, befor Fywe thousand gentilmen; And the said Adame being bot ane young mane and of a mein flatur, flew the said James Carmichaell, he being als abill a lyik man as wes leiwing.'—In a MS. Hist. of Scotland, Adv. Lib. A. 4, 35, it is recorded, 'thai mett in ane small inche be the sie neir to Barnbugell; my Lord Duke and sandrie utheris being thair Judges.'

and provokit him thairto, that he vpoune the morne thairefter, being the tuentie day of the said moneth, and the Sabbath day, fuld meit yow, bodin¹ with fword and gantillet, vpoune St Leonardis Craigis,² befyde this burch of Edinburgh, near to our sowerane lordis Palice of Halyrudehous, quhair his Maiestie was in proper perfoune for the tyme; and thair to fecht with you the Singular-combat, for certane iniurious wordis fallin out betuix you and him: Lyke as ye, vpoune the said xx day of Apryle, being the Sabbath day, airie in the morning, betuix fyve and sax houris, accompaneit with vtheris your complices, come to the said place appoyntit, callit St Leonardis Craigis, and thair awaittit vpoune the said vmq^{le} James cuning to yow; quha, haifing kepit the said tryift³ at the said hour and place, ye and your complices foirfaidis sett vpoune the said vmq^{le} James, and maist schamefullie and crewallie, with fwordis, straik him in the face and vpoune the heid, and gaif him foure bludie woundis thairon; and thairbye maist barboroufflie, crewallie and tyrannoufflie slew the said vmq^{le} James Vauchope, vpoune set purpois, provisioune and foirthocht felonye; in hie contemptioun, &c.

ARGUMENTS *and* PLEADINGS *of the Parties.*⁴

The said Dittay being red, the Pannell askis instrumentis of the tennour thairof, and speciallie of that pairt, quhairin it is alledgeit that the pretendit Slauchter contenit thairin procedit vpoun the provocatioun to ane Singular Combat, and that vmq^{le} James Wauchop refortit to the place appointit, and it is alledgeit that he wes thair slayne: And alledgeit, that the mater contenit in the Dittay aucht nocht be putt to the knowlege of ane Assyse, becaus the said vmq^{le} James, the tyme of the said alledgeit slauchter, and be the space of diuers yeiris offbefore, wes the Kingis rebell, putt to the horne, for noncompearance, to ansuer to his Maiestie and the Counfall, for the tressonabill reffett, intertinnement and intercommoning of vmq^{le} Archibald Wauchop, sumtyme apperand of Nudry-Merchall, than standand vnder proces of fforfaultour, for the caussis thairin contenit: quhilkis Lettres of Hoirning wer execute aganis him, and wer direct vpoun ane Decreit, gewin be his Maiestie and Lordis of his hienes Secreit Counfall, of the dait, att Halyruidhous, the xxij day of Februar 1^m.V^e.lxxxxvj yeiris: And for verificatioun of the said alledgeance, the preloquantouris producit the Decreit foirfaid, with the Extract of the Lettres of Hoirning, with the executioun thairof: And thairfore, in caise the Dittay wer of veritie, quhilk is nocht grantit, the slauchter of ane rebell, quha had na protectioun be his Maiestie nor be the Law, and speciallie vpoun ane Singular-combat takin on be bayth the pairteis, is nocht ane cryme pwneifabill: And thairfoir, the Dittay sould nocht be put to the knowlege of ane Assyis.

It is ansuerit, be the Aduocat and perfewaris, that the alledgeance foundit vpoun the Hoirning producit is nawyis relevant; becaus the said Hoirning is and wes null, fra the beginning, and is sa declarit be decreit of the Lordis of Counfall and Seffioune, in Maij last, heirwith producit: And feing, it is of lyke⁵ of the Law, 'nocht to be att the horne,' and 'nocht to be lauchfullie putt to the horne,' the persoun that wes slayne, newir being lauchfullie denunceit, he man⁶ be repute newir to haif bene

¹ Furnished or provided with. ² Perhaps that part of Salisbury-crags opposite to St Leonard's-hill, situated within the King's-park; and then resorted to in affairs of honour. On Mar. 11, 1597, 'William Gluffer and James Hepburne slew ane another at the fingell-combat, on the hill callit Sant Leonardis Craigis. The said twa ver buriet on the morne thairefter.'—*Birrel*. ³ Appointed meeting.

⁴ In order to condense these legal disputations as much as possible, they are thrown into a small-sized type. ⁵ Alike, of equal import. ⁶ Must of necessity.

att the horne : In respect quhairof, this mater aucht to pass to the tryell of ane Assyse ; and for verifi-
cation of the answer, producit the said Decreit.—It is answerit be the preloquoutouris for the said
Robert, that thairallegeance is maist relevant in itt selff, and concludis necessarlie : And as to the an-
swer, it is na argument aganis the relevancie, bot it apperis to be ane reply to elide the allegeance, how-
beit it wer relevant, and is foundit upoun ane Decreit obtenit before the Lordis of Counfall and Ses-
sionne, presentlie producit ; quhilk Decreit the preloquoutouris defyris to be red, befor thay mak ony
forder answer thairto.

The said Decreit of the Lordis of Counfall and Sessionne being red, the preloquoutouris for the de-
fender acceptit the famin *in quantum* ; and answerand to the persewaris allegeance, fayis, that the
Hoirning producit, procedit vpoun the Decreit of his Maiestie and the Lordis of his hienes Secreit
Counfall, for the said vni^{le} James Wauchopis contumacie, being challengeit vpoun ane cryme of Treas-
sonne ; quhairin the Lordis of Session nocht being Judgeis competent in the fyrst instance, mekill les
could thay be Judgeis compitent in the secund, to reitret¹ the Decreit of our souerane lord and Lordis
of his hienes Secreit Counfall ; and swa, the former Decreit, being alledgeit to be reduceit be the
Lordis of Session, quha wer nocht Judgeis, the said fyrst Decreit standis in effect ; and consequentie,
the proces of Hoirning following thairvpoun. Attovre the said Decreit is gewin for null defence and
nocht comperance of my Lord Thesaurer and aduocat nocht comperand, quha wer only summond, and
the said Robert Auchmowtie, quhais prefens could nocht be misknawin, in respect of the fact inter-
venient, and being in preafoun for the challenge of the said alledgeit slauchter, the tyme of the execu-
tion of the summonds and deduction² of the haill proces ; and he was nawyis summond. And mair-
owre, the said action of Reduccionne, quhairvpoun the said Decreit reductiue procedit, is intentitt att
the instance of Mr George Wauchop, as air apperand, to the effect that he mycht be Retourit³ ; and of
his susteris, to the effect that thay mycht be decernit executouris, to the effect that thay mycht recover
the said James heretage and movabill guidis, and to that effect allanerlie ; the effect of the Lordis De-
creit reductiue can nocht exceid the intention and defyre of the persewaris. And quhair it is alledgeit
be my Lord Aduocat, that the said proces of Hoirning being reduceit, it is all alyke as gif it had newir
bene execute ; it is answerit thairto, that the said allegeance is alliterlie⁴ irrelevant of the Law,
becaus it is sufficient for the said Robertis Defence, that att the tyme of the said alledgeit slauchter,
thair wes anie decreit of his Maiestie and lordis of Secreit Counfall standand, be the quhilk, lettres wer
ordanit to be direct, to denunce him rebell for his non comperance, in ane mater of Treassoun ; the said
Decreit beirand that he wes lauchfullie chargeit and comperit nocht. Vpoun the quhilk Decreit, our
souerane lordis lettres of Hoirning wer direct, and the samyn dewlie and lauchfullie execute and dewlie
registrat in the Shereffis buikis ; swa that nane could pretend ignorance thairof : And gewand⁵ that
the saidis Lordis mycht haif bene Judgis to the Reduccion of the charge⁶ of the fyrst lettres and to
the Decreit gewin be his Maiestie and the Lordis of Secreit Counfall thairvpoun, quhairvpoun that
pretendit Reduccion procedis, allanerlie⁷ vpoun this reafounne, that the executione of the charge to
compeir befor his Maiestie and Loirdis of Secreit Counfall, wes nocht subscryuit, att the leist, wes
nocht stampit, be the officer : As to the subscruption, it wes nawyis necessar be the lawis of this realme,
and thairfore the caus of gewing of the saidis Lordis Decreit man be ascryuit allanerlie to the wanting
of the stamp. It is also of veritie, that the said James Wauchop continewit in his rebellounne be the
space of four yeiris or thairby, and newir quarrellit the famin in his tyme ;⁸ and thairfore, quhatsum-
ewir thing is done be the saidis Lordis Decreit aucht nawyis preiudge the Defender in his Defence of
the alledgeit cryme, committit of before, he being now challengeit vpoun the said alledgeit slauchter.—

¹ To recall, retract, or set aside.

² Leading, carrying on.

³ A form of law, proceeding on a writ

issued from Chancery, by which a person is returned by an Inquest, as heir to a party deceased.

entirely.

⁵ Giving, or granting, for the sake of argument.

⁶ An official notification given by a Mes-

senger at arms to the party against whom a writ is issued, and certified by the officer serving, in an instrument, termed an 'Execution,' which is usually indorsed upon it.

⁷ Only, solely.

⁸ During his lifetime.

And that pairt of my Lord Aduocattis anfuwer, beirand, 'that the Reductioun of the Hoirningis eftir the flaughter, is alyke as gyf the Hoirning had newir bene execute,' is allenarlie irrelevant of the Law, in this mater, and fubiekt quhairvpoun the queftion ftandis; for, be the Lawis of all natiounis, ane rebell, speciallie for ane caus of Treaſoun, may be flayne, and that flaughter is nocht pwneifabill be the lawis; quhilk is of veritie, nocht only quhen the proces of rebelloun is maift juſtlie and ordourlie procedit, bot als this famin ground of the law is als trew, quhen be a Decreit of the Prince and bis Counfall ony perfoun, challangeit vpoun Treaſoun or ony vthir cryme, comperis nocht bot difobeyis, and thairfor is ordenit to be declarit and publeiſt as rebellis; and quhair publicatioun is maid dewlie and ſufficiently, and quhair the famin is regiſtrat in the proper regiſteris appertening thairto, as is cleirlye veriſeit in this caice be the writtis produceit, the gritteſt point of this queſtioun ſtandis in the propoſition: For verifiatioun quhairof, the defender alledgeis thir places of the Law and of the Doctouris, as followis, to preiſ this concluſioun, *Quod Bannitum, cuius bannum iniuſtum aut nullum eſt, impune licet occidere*. Alexander, concilio 65, lib. 3, numero 6, et deinceps. Baldus, conſilio 142, lib. 4.—Phillippus Decius, conſilio 482, lib. 4.—Nellus a Sancto Germano, in Tractatu 'de Bannitis.'—Bartolus, in lib. 'Si ex lege facta de Adulterijs,' Verba Bartoli ad queſtionem, 'de eo qui interfecit non legitime exbannitum;' et dicit, 'ſi interficiens nullitatem ſciebat, tum punitur; ſecus, ſi hoc ignorabat et quod ignorans, non punitur;' reddit rationem Dicius, qua occidens deceptus eſt, auctoritate publice ſcripture.—Bartolus in L. 2, § 'hec actio,' ff. vi bonorum raptorum. Hec Bartoli verba, 'Occidens bannitum cuius bannum non tenebat, excuſabitur a pena homicidij.'—Joannes Andree in additionibus ad ſpeculat. in Tit. de Obligationibus et ſolutionibus, concludit, quod 'ſi quis banitus fuerit propter pecuniam non ſolutam et poſtea ſoluerit, banno tamen non cancellato occiſus fuerit, non teneatur pena homicidij.'—Bartolus in L. genero ff. de hiis qui notantur infamia, hec verba, quod 'ſi quis occidit illum quem credebat eſſe exbannitum, vel adulterauit illam quum credebat non mixtam, quod non puniatur pena homicidij nec adulterij.'—Item, Julius Clauus, § finali, in hiis criminibus in verbo 'Homicidium,' quhair he treitis this queſtioun att grit lenth; quhair rebelloun is nocht formall, or quhen thair is ane play, na nullitie, gif the rebelloun be fund in the regiſter and nocht cancellat, nor na Relaxatioun, as we call it in the famin Regiſter, occiſor non teneatur pena homicidij.

Item, the Defender deſyris my Lord Juſtice, for ſchortnes, to reſſaue the buikis contenand the places alledgeit, and to conſider the famin, as accordis; ſpeciallie, ſeing the queſtioun is nocht only vpoun the defenderis lyffe, bot als it may bring in ane dangerous preparatiue throw all this realme; that eftir a man be flayne, being fund att the horne be vertew of ane Decreit, and the hoirning newir being quarrellit during all his tyme, and the Hoirning being retreit¹ allanerlie, for want of ane ſtamp vpoun the fyrſt charge of ſummonds, quhairof all men mycht pretend juſt ignorance, be reaſoun that the ſaidis lettres of Hoirning with the Decreit wer regiſtrat, lyke as, the ſaid Hoirning wer ſtampit, and the ſaidis Lettres of Hoirning and chargeis wer reduceit, *in confequentiam*; for the charge wes newir regiſtrat nor miſterit² to be regiſtrat. It is alſo gritlie to be weit³ that this flaughter procedit nocht vpoun ony lang precogitat malice, bot vpoun ane quarrell tane betwix twa young men in thair heit, vpoun ane ſingular combat, fochin⁴ the tyme and place appointit; quhilk nedit nocht his Maieſteis Licence, becaus the ſaid James Wauchop wes nocht his lieg, bot rebell, as ſaid is.

It is repliyt be the perſewaris, as ofbefore, that the haill former alledgances aucht to be repellit, becaus the famin being foundit vpoun the ſaid Hoirning, and vpoun the priuledge of the Law to ſlae rebellis, the ſaid Hoirning falling, the haill alledganceis following thairvpoun lykewyis fallis, for the cauſis foirſaidis: And quhair it is alledgeit, that the Decreit annulling the Hoirning is null, becaus it wes gewin be the Lords of Seſſioun, nocht being Judgeis competent; and for the non comperance of the defender ſummond, and that the famin can be na forder extendit nor to the perſewaris interes ly-

¹ Retracted or set aside.² Needed, had occasion to be.³ Weighed,⁴ Fought.

bellit, it aucht to be Repellit, in respect of the Decreit standand, to the validitie quhairof and jurisdiction of the Lordis of Sessioun gewaris thair of my Lord Justice is nocht Judge ; nather can ane Decreit, gewin vpoun the nullitie of ane Hoirning for ane nullitie of the law, be restrictit to the particular interes of ane partie perfewar, bot being fund null of the Law, att the instance of ony lauchfull partie, man be null, *quoad omnes mortales* ; nather is thair ony relewant caus contentit in the saidis alledgeanceis, quhairfore the said Robert Auchmowtie sould nocht haif bene summond to the gewing of the said Decreit, for his cryme and malifice could nocht mak him necessar partie in the Reduction of the Hoirning, execute at my Lord Thesaureris instance, aganis the defunct. And quhair the alledgeance beris, that the Decreit of the Lords of Secreit Counfall and lettres rasit thairvpoun, with the denunciatioun and registratioun of the famin, being formall, and exstant publictlie in Registeris, can nocht be tane away *in consequentiam*, for nullitie of the fyrst charge, that is altogidder irrelevant of the law ; quhairby it is exprellie provydit, that na man can be lauchfullie denunceit to the horne, vnles he be fyrst lauchfullie chargeit : The Decreit produceit, with the lettres and denunciatioun following thairvpoun, can newir subsist, becaus thay proceid nocht vpoun ane lauchfull charge, bot vpoun ane charge altogidder null of the law, and declarit to haif bene sa fra the beginning, be the Decreit produceit : And quhair it is affermit be the pannell, that the law of all natiounis, *licet rebelles impune occidere*, for verificatioun quhair of thay cite Alexr, Bartolus, Baldus, Nellus, Decius, Julius Clarus and vtheris, it is anfuert, that na respect aucht to be had in this caice to the said alledgeances, becaus the defunct wes newir rebell be vertew of the Horning produceit ; becaus it is exprellie statute, be Act of Parliament, that all chargeis and executiounes of Lettres of Horning falbe stampit with the messinger executouris stamp, beirand the fyrst lettres of his name and surname, vthirwyis, incaise ony of the executiounis necessaris want the solempneteis of the law, the Horning is altogidder null ; and it is of veritie, that the only charge quhairvpoun the Decreit and Hoirning produceit procedis, wantis the said solemnitie, as is declarit in the Decreit-reductiue produceit ; and thairfore the said Horning is, and wes fra the beginning null ; quhilk nullitie being ane nullitie of the law, is and hes alwyis bene compitent to haif bene proponit, be way of actioun or exceptione : And seing the famin could newir haif debarrit the said vmq^e James, being on lyffe, fra his defence, or haif bene objectit to him as ane lauchfull impediment to him ; sa the famin can nocht stay nor delay the lauchfull tryell and pwneifment of his slauchter, speciallie, becaus the said Horning is nocht only null of the law, bot declarit null be sentence of the ordiner Judge : And quhair it is allegit be the pannell, that many inconvenientis may follow to the liegis, gif ane Horning, exstant in the Register att the tyme of the slauchter committit, in the persoun of the pretendit rebell, the famin falbe na warrand to the committer of the slauchter ; gif ony place be to motives, in this judgement, my Lord Justice hes to considder how mony gittar inconvenientis may ensue, gif ane fals or null Hoirning, exstant in the Register, falbe ane sufficient warrand to murthour ony of his hienes frie liegis without perrell or puneifment. And as to the haill authoriteis of the Doctouris alledgeit, thay ar sett doune vpoun ane generall propositioun, proceding, *nimirum non fiante statuto, quod licet bannitum impune occidere ; possit quis puniri ob interfectionem illius, cuius bannum de Registro non erat cancellatum, vel cuius bannum erat nullum ?* Quhilk can nocht militat in our caice, becaus thair is na statute nor Law in this countrey gewing power to all men to slae sic as ar att the horne ; mekle les to slae sic as wes newir lauchfullie att the horne ; *igitur*, &c.

The Defender, be his preloquoutouris, Repetis thair former alledgeances, insofar as the famin contentis thair objectiounis aganis the Decreit-reductiue, and remittis the famin to my Lord Justice, speciallie in that pairt, quhairin the Justice-generall, in ane mater criminal, properlie appertening to his jurisdiction, may judge in ane mater of Treafoun or Reductioun of ane Decreit gewin vpoun ane challenge of Treafoun ; in the reductioun of the quhilk Decreit, thay could na mair be Judgeis nor thay mycht be judgeis in the principall caus or mater. And quhair it is reasonit be the perfewaris, that the proces of Hoirning is reduceit, the defenderis adheris to the anfuertis maid be thame ofbefoir ; and eikis

thairto, that the perfewaris alledgances ar nocht relevant, nocht specifeand that the said proces of Horning wes reduceit before the said alledgeit slauchter; for the reductionn supervenient, and speciallie for the alledgeit want of ane stamp, quhilk is the only reasoun of the said reductionn, is na caus to take the defenderis lyffe; speciallie, the want of ane stamp nocht being in the denunciatioun of the Horning, bot in the executioun of the charge, quhilk wes nather registrat nor necessar to be registrat: And forder, it is anfuert be the Defender, that of the Law and practik of all natiounis, and speciallie within this realme, na man is pwneist for the slauchter of ane rebell; and quhensoever the rebelloun wes proponit aganis the accusatioun, the Justice newir patt that slauchter to the knowledge of ane Assyis, quhilk, as is belewit, my Lord Aduocat will nocht deny; swa that the argument is nocht vpoun that generall; for it is out of all dout, that my Lord Aduocat makis the questioun vpoun the Reductionn of the horning: To the quhilk it is anfuert, be the maist pairt of the wryteris on the Law, that howbeit the proces of rebelloun eftir the slauchter wer fund informall or null of the law, that declaratour can nawyis preiudge the partie defender; and this is maist equitabil and agreeand to reasoun: And it apperis, that thair is na anfuert maid to the conclusioun of the Doctouris of the law; bot that thay found thame selfis, in the countreis quhair statutis ar maid, that it sould be lessum to ony privat man to slay ane rebell, and that in this realme thair is na sic statute or ordinance: To quhilk it is anfuert, that the Justice-Generall followis the dispositioun of the Commoun Law and the consuetude of all natiounis: and als, it is knawin to be ane inveterat consuetude of this realme, att this tyme, and by the space of twentie 3eiris bypast, that quha soewir is challangeit vpoun ane slauchter and vpoun rebelloun wes newir putt to the knowledge of ane Assise; and thair is na questioun that ane consuetude inviolablie obseruit is of gritar force nor ane writtin law, L. 'non dubium,' ff. 'de legibus;' and as the Doctouris concludis, that ane rebell, quha wes declarit formallie rebell, may be slayne vnpwneist, sa thay conclude, quhair the proces of rebelloun is newir drawin in questioun the tyme of the rebellis lyfytyme, bot eftir his deccis, albeit the famin be null, the slayer still (shall) nawyis be pwneist: Now, this is owre proper questioun, *an Bannitus vel rite vel nulliter bannitus, possit impune offendi?* The affirmatiue thairof is cleirly verifeit be the allegatiounis before reberfit, in the quhilkis the Doctouris adduces diuers grit praktesis and decisiounis in findrie of the maist famous Judgementis¹ of Europ, quhair the slayaris of rebellis, albeit vnjustlie declarit rebellis, and quhais rebelloun wes declarit null: Quhilkis allegatiounis ar nawyis refutit be my Lord Aduocat, that quhen the rebelloun is fund null eftir the slauchter that the slayer salbe pwneist.

It is anfuert be the perfewaris to the fyrst pairt of the alledgance, anent the iurisdiction of the Lordis of Sessioun, anent the Reductionn of the Horning produceit, that albeit thay could nocht haif bene judgis compitent to the tryall of the cryme contenit in the charge vsit aganis the defunct, yit thay wer maist compitent judgeis to the Reductionn of the Hoirning, for the nullitie of the law thairin contenit; nather aucht thair ony respect to be had to the dait of the decreit of Reductionn, gewin sen the slauchter of the said vmq^{le} James Wauchop, becaus the famin, being ane Declaratour of nullitie of the said charge and denunciatioun following thairvpoun; lyke as the famin charge and Hoirning following thairvpoun mycht haif bene alledgeit and declarit null in this Judgment, be way of exceptioun, gif it had bene produceit in this Judgment, quhilk is nocht necessar now, in respect of the Declaratour and Decreit produceit: And as to the generall ground of the Law proponit for the pannel, quhilk thay wald mantene be ane alledgeit custum of this Court, quhilk thay wald mak equivalent to ane statute, becaus thay haif na Law nor Act of Parliament to warrand the said propositioun; the said alledgeit custum of this Court can nawyis warrand this propositioun, becaus it wes newir fund be ony sentence or Interloquoutour of this Court, that it wes lesun to slae ane man being att the horne; bot quhensoewir the pannel proponit sic ane defence, the griteft favour that wes grantit to thame, in respect thair-of, wes to continew the mater to the thryd day of the Air or soner, vpoun xv dayes wairning; quhilk

¹ Tribunals, courts of Justice.

can nocht be grantit in this caice, becaus it is sufficientlie verifeit to my Lord Justice, that the defunct deit nocht rebell, and that the Hoirning vñt in thair defence is and wes null fra the beginning, and wes null of the law; quhilk is the principall reply quhairvpoune the perfewaris insistis: And yit, for satisfactioun of the defenderis argument, that of the law, *licet Bannitum impune occidere, licet illius bannum fuerit nullum*, it is answert, and the perfewaris fall verifie be the authouris citat be the defenderis, that the contrar is trew of the law; as is affermit be Bartolus in L. ‘vt vim,’ numero primo ff. ‘de Justicia et jure,’ in thir wordis, ‘Bannitus est reseruata defensio, ergo illicita est offensio;’ et infra, ‘sed ego dico, quod de jure communi non licet occidere Bannitos.’ Forder, for corroboratioun of the reply, foundit vpoun the nullitie of the Hoirning, and that thairfore can furneis na defence to the pannel, the perfewaris citatis¹ Bartolus ad legem quartam, § ‘condemnatum,’ ff. ‘de re iudicata,’ his verbis; ‘non jure Bannitus, non dicitur exbannitus, nec potest impune offendi.’ Idem ad Legem penultimum, ff. ‘de adimendis legatis;’ et ad legem ‘vxo,’ numero tertio, ff. ‘de Donationibus inter virum et uxorem;’ et lege, ‘non putant’ § ‘non queuis,’ ff. ‘de bonorum possessione contra tabulas.’—Forder, it is ane propositioun mantentit be all the Doctouris, quod ‘non licet Bannitum in ciuitate tolleratum impune occidere, quia talis tollerantia in ciuitate prestatat illi securitatem, tametsi de banno nondum fuerit cancellatus.’ Sallicetus in Lege, ‘nullus,’ capitulo ‘de Judeis;’ et sequitur Joannes de Annama in capitulo ‘sicut;’ extra ‘de Indicijs,’ dicens ‘hoc esse singulare dictum et se vidisse seruari in Bononia;’ Joannes de Arnono, singulari decimo; Hippolitus de Marcilijs, singulari 77. Phelmus in capitulo, ‘sicuti Judei’ in fine; Et ibi Johanes de Anonia extra ‘de Judeis.’—And it is manifest that the defunct, continewallie eftir the alledgeit Hoirning to the hour of his deceis, had publict resoirt within this burcht, and had acces and permissioun to do his lauchfull effairis thairin bot ony impediment, bot of the knowledge, permissioun and allowance of the Magistratis and Counfall thairof, it being knawin that he wes the Kingis frie liege, and nawyis lauchfullie denunceit at the horne: Lyke as, the pannell wes his familiar companzeonne, frequentit his conuersatioun, borrowit and lent, eit and drank with him, as his awin confessioun beris; and swa can newir be hard to say that he wes rebell.—Fynallie, the pannell can newir be hard to found ony defence vpoun the foirsaid ground of the law, quod licet Bannitum impune occidere, becaus it is certan of the law ‘quod impunitas occidenti Bannitum non conceditur, quando non ob publicam vtilitatem sed ob priuatum odium vel priuatas inimicitias qñs bannitum interficit hunc enim vel ut homicidium debet Iudex punire.’ Bartolus in Lege ‘de Delictoribus,’ lib. ij: Ludouicus Romanus in Lege ‘si quis in graui,’ § ‘vtrum,’ ff. ‘ad Senatam consultum.’ Felicius in capitulo ‘in Ecclesiarum,’ numero 10, 11, vel 12, ‘de Constitutionibus.’ Marcius consilio nono, numero 28, et consilio 10 numero 42. Baldus in Lege ‘decuriones,’ capitulo, ‘de his qui notantur infamia,’ &c., ‘hanc sententiam probant Doctores omnes’ ad Legem ultimum, Capitulo ‘de maleficis et machematicis,’ in fine, his verbis, ‘aut proprium fortassis inimicum sub huiusmodi vindicti nomine occidens’² And it is notour and confest be the pannel to the Kingis Maiestie, and att his examinatioun, that he slew the defunct, not for ony respect of his pretendit rebellious or for seruice to his Prince, bot for his awin particuler quarrell and combatt, vnderthane vpoune the pannellis provocatioun and cartell in writ; quhilk salbe sufficientlie verifeit to my Lord Justice, gif he think itt expedient. In respect quhairof, the haill former alledgeances aucht to be repellit, and the dittay aucht to be putt to the knowledge of ane Assyis.

—It is answert be the defender, that the Lordis of the Sessioun could newir be Judgis to the Reductioun of the Hoirning, becaus it procedit vpoun ane decreit gewin be the King and Counsal; to the Reduction quhairof the saidis Lordis wer nocht Judgis; and swa the Decreit standand, thay could be na Judgis to the reductioun of the Hoirning.—To the secund pairt, quhair it is alledgeit, that it wes newir found in this Court, that itt wes lesun to ony persoun to slae (ane re)bell, &c. it is answert,

¹ Cite or quote.² Part of this page torn away here, by which several lines are rendered unintelligible.

that quhen rebelloun is proponit the judgement and gif neid beis nocht only continewatioun of the mater wes do decisiounis, wes directlie the allegatioun maid of the Doctouris (by) the Perfewaris; the defender referis to the buikis,¹ hinc inde. As to the argument (of) ane rebell being tolerat in ane citie can nocht be offendit, the maist pairt of the Doctouris concludis indistinctlie, that he may be offendit quhiddir he be tollerat or nocht; and mair, althocht he obtenit the Kingis grace, and the grace be nocht registrat, *potest impune occidi*; sa it is in this caise, quhair thair is na Relaxatioun registrat: Attowre, the reply wes newir fund relevant be the practik of this realme, and it wer ane grit danger gif swa war. *Item*, that pairt, it is nocht lesum to slae ony rebell *privati odij causa*, &c. it is nocht relevant, ffor the maist pairt of all the wryteris are in the contrar; and be the practik of this realme, non queritur, vtrum sit publici boni an privati odij causa?

The perfewaris ceisand to repeat any thing that is alreddy said, answers only to twa pointis, quhilkis semis to be newere proponit be the defenderis; the ane, that the Doctouris affermis, that ane rebell haifing obtenit the Kingis grace, may be slayne but perrell of Law, gif his grace be nocht registrat; quhilk is altogidder contrair the lawis and practik of this countrey, becaus in crymes of rebelloun committit to the Kingis Maiesteis only particular offence, his Maiesteis awin is grantit to the rebell preiugeis haill crymes, and makis him to be lauchfull subject, that may nocht dit but pwneifment, and his in that cause nedit na quhair it is nixt alleget wes newir practesit, that ane man being slayne att the horne, and his kyn and freindis perfewing the flear before the Justice, that ony proces wes grantit in the mater: It is answert be the perfewaris, that in ane actionn altogidder lyke to this caise, verry notour to my Lord Justice and all the memberis of Court, the *Laird of Arkinglas*, being accusit for the slauchter of the *Laird of Caddell*, alledgeit, that na proces could be grantit in the said mater, becaus the defunct wes slayne att the horne; and for verificatioun thairof producit Lettres of Hoirning dewlie execute, indorfat and registrat aganis the defunct, att the instance of Mr James Harvie, advocat: To the quhilk it wes answert, that the said Hoirning wes reduceit, and sa could nocht stay proces: It was duplyit, that the Reductioun could nocht preiudge the pannell, becaus the actionn of the Reductioun wes intentit eftir the deceise of the Laird of Caddell, and sa could nocht mak him nocht to haif deceisit att the horne, nather could the said defender be preiudgeit, he nocht being callit thairto, speciallie seing the perfewaris of the Reductioun, to witt the relict and bairnis of the defunct, becaus lang before the intentioun of the said Reductioun, thay had summond the said Laird of Arkinglas to vnderly the Law for the said slauchter, and for his nocht comperance had putt him to the horne; to the quhilk it wes answert, that the Hoirning being null fra the beginning, and declarit sa be the Decreit of the Lordis, the Decreit wes drawin bak to the tyme of the denunciatioun, and sa the defunct deit nocht att the horne, nather wes it necessar to thame to call the said Laird of Arkinglas to the said Reductioun, becaus his cryme could mak him to haif na interes in thair ciuile caus and thay had done sufficiently calling the partie raser of the lettres, and the Kingis Thesaurar and Advocat for his Maiesteis interes: In respect of the quhilkis answers, verifeit be the Decreit producit, my Lord Justice repellit the haill defenss proponit be the pannell vpoun the said Hoirning, declarit the samin null, and fand forder proces in the said mater.—In respect quhairof, being ane cace sa lyke to this present cais, that thair can na a poynt of disconformitie be alledgeit betuix the caissis; Repentand the former answers thairwith, the haill alledgeances proponit be the defenderis aucht to be Repellit.

It is answert be the defenderis, as to my Lord Advocat alledgeance anent the Princeis grace and admissioun to his sycht, *omnino id non relevat*, without ane relaxatioun.—*Item*, anent the secund alledgeance, foundit vpoun ane practik, anent the accusatioun of Arkinglas; answers, that thair is na thing

¹ The Books or authorities formerly quoted by the pursuer.

schawin to verifie; and protestis, that it be nocht respectit, vnto¹ itt be schawin, that we may anfuert thairto.—The Aduocat referis the notorietie thairto to my Lord Justice.—It is anfuert be the defender, that that alledgeit notorietie can nocht preiudge him, without he saw it, and might anfuert thairto.

THE JUSTICE continewis Interloquoutour to the fewint of Junij instant.

[*Mr William Haert, Justice-Depute.*]

Jun. 7.—The Defenderis desyris the practik alledgeit for Arkinglas to be sene, before ony forder proces; quhilk can nocht be refusit, bayth in respect of the Act of Parliament, be the quhilk it is statute, that all the verificationnes of the accuser sould be produceit in presens of partie, quha can nocht be preiudgeit be the pretendit knowledge of the Judge or memberis of Court, speciallie in ane accusatioun capital.—The persewis anfuertis, that the Act of Parliament alledgeit be the defenderis, is only anent the verificatioun of the cryme to be produceit to the Assyis; and that na vther verificatioun sould be ressauit, fra² the Assyis be incloft, nor wes alledgeit and produceit in presens of partie before the inclofting; and concernis nocht the alledgeances of the Law nor practik maid and to be decydit before my Lord Justice, in the quhilk his awin knowledge and conscience is his onlie warrand.—Anfuert the defender, that in ony mater criminall, thair may be twa kynd of defensis to him; ane to impeid the mater to pass to ane Assyse, the vther, to purge be the Assyis, quhen thay ar chosin: In this caise, thair is ane exception peremptour proponit, quhairfore this mater sould nocht pass to ane Assyse, to the quhilk thair is diuers anfuertis, and replyis maid; and speciallie the last, foundit vpoun the said pretendit practik quhairvpoun my Lord Aduocat apperis maist to be foundit; and gif ony sic practik be, it sould nocht be respectit without the productioun thairto, be reasoun that in ane ciuile cause of leift consequens, ane decisoun alledgeit and nocht produceit wald nocht be respectit, and gif the said alledgeit practik wer schawin, the defender wald reasoun that it wald nocht militate in this cause: And the Judge can haif na warrand in this caus to judge vpoun his conscience; the practik nocht being produceit, and the partie nocht being hard.—Anfuert the persewis, that thair reply is nocht foundit vpoun the practik alledgeit, bot vpoun the Decreit of Reductioun of the Hoirning vrit be the defenderis; the effect of the quhilk decreit being impugnit be the defenderis, the said Decreit is mantenit be the persewis to be ane lauchfull ground, be law, reasoun, and practik, to mak the said hoirning null fra the beginning; and for my Lord Justice bettir satisfactioun, the said practik is alledgeit, quhilk being notour to his Lordship, as done in ane actioun quhair as himselff wes persewar, it nedis na forder productioun nor verificatioun; ffor the relevancie of the said reply dependis nocht vpoun the practik, bot is relevant of the law, albeit the practik be allegeit for forder bleiring³ of the mater, and that quhilk is notour to the Judge, *in jure vel praxi*, neidis na forder verificatioun.

The defender anfuertis, that insofar as my Lord Aduocatis reply is foundit vpoun the law, he referis him to the lawis alledgeit be him of befor for his defence, and sayis, that thairby it is cleirly decydit that the defence proponit is of the law maist relevant, desyring the Judge, as he will anfuert to God and his Maiestie, that ewerie place alledgeit be confidderit be him and his Assessoris⁴ before the Interloquoutour: And quhair my Lord Aduocat anfuertis, that the relevancie of his alledgeance dependis nocht vpoun the practik, gif his lordship will anfuert directlie that it falbe na pairt of the verificatioun or confirmatioun of the reply, his lordship fall nocht be vrgit with the productioun thairto: bot, seing my Lord Aduocat affermis that that practik is sa notour and weil knawin to my Lord Justice in that mater, quhilk wes persewit at his awin instance; that knowledge, how grit it war, can nocht tak away the defenderis defensis, quhilk he can nocht propone, that practik nocht being schawin; speciallie, considdering the name of this judgement, and the wechtines thairto vpoun lyffe and deid, and it may verry weil stand, that the argumentis of the defence wes nocht maid in the vther cause

¹ Till.

² From the time that the Assise are inclosed.

³ Confusing, blinding.

⁴ The Assessors

are not marked in the Record; but it has formerly been remarked, that it was the daily custom to have Assessors, and that they are only occasionally named in the books of Adjournal.

quhairin the practik wes alledgeit : And farder, it is ane vndoutit ground of the law, that judgementis fould nocht proceed vpoun examplis, bot vpoun the lawis : And it is ane vther ground, that ony thing judgeit aganis ane persoun can nocht be hurtfull to ane vther ; and the defender hopis that the Judge will nocht tak vpoun his conscience to proceed vpoun that practik, quhill it be fene be the partie and his objectiounis hard.

It is answert, that it is na forder necessar to produce the practik alledgeit notour to the judge him self, nor to produce ane law and Act of Parliament ; and swa thay ceis to insist ony forder vpoun that poynt. As to the last pairt of the last answert, that the Judge aucht to decerne be law and nocht be examplis, it apperis that that answert can nocht weil agrie with ane vther answert maid be the partie in this samin proces, that the practik and custum of the Court hes the force and effect of ane Law ; quhairvpoun thay inferrit that it wes lesum, be the practik of this countrey, to slay ane man att the horne, quhilk wes nocht sa relevantlie alledgeit be thame as this practik is be the persewaris, becaus thay alledgeit na decisioun in termes for thair argument, as in this caise. As to the last pairt, *quod res inter alios acta, alios non preiudicat*, that is vnderstand to be confiderit *in facto* ; bot quhair in lyke caissis that is decernit be the Judge to be Law, quhilk may astrik¹ him of Law and reason to the lyke decisioun in thingis thaireftir falling furth, it is nocht to be confiderit *ratione rei, sed ratione paritatis rationis*, quhilk makis the constant² decisiounis of the Judgis in caissis bypast, to haif the effect and strength of Law in thingis present and to cum.

The Defender answert, that thair is na disconformitie of his former answertis to ony of his vther alledgeances maid in this proces, ffor it is certane, that be the constitutionis of the maist pairt of all the Nationis, *quod licet Bannitum impune offendere* ; and it is ressauit as ane commoun law within all the Judgementis³ within Europ. and within this realme ; and quhairwir it is alledgeit, it stopis the pannell to pas to ane Affyise ; and it is certane that thair is ane grit difference betuix ane Law confiderit, and ane example : ffor ane Law is ane thing quhilk is perfyte of itt self ; ane consuetude hes the effect of ane law, quhair it is groundit vpoun mony factis and decisiounis, *in foro contradictorio*, quhair the parteis ar hard ; bot vpoun ane singular act thair can nocht be ane consuetude induceit ; and gif the practik alledgeit vpoun this singular act wer exhibite, the partie wald propone, that that practik war nocht in the termis of this caus : And thairfoir, the defender repetis his fyrst desyre vpoun the productioun of the practik ; and gif it be nocht produceit, the answert maid thairvpoun fould nocht be respectit.—And forder, the defender alledgeit, that be⁴ the persewaris verefeis nocht thair intention ; and thairfoir referris him to the buikis.

The persewaris and defenderis being inquirt, gif thay wald say forder, declarit that thay wald say na forder.

INTERLOCUTOR. The Justice continewis this mater to Tyisday nixtocum, the tent day of Junij instant, becaus he is nocht throuchlie auisit with the alledgeances, defensis and answertis proponit, *hinc inde*.

The samin day, Mr George Wauchop, ane of the persewaris, produceit his Maiesteis Warrant, qualtairof the temmour followis.

REX,

JUSTICE, Justice Clark and your deputis, We greit you weil. Forfamekill as Robert Auchmowtie, chirurgiane, is presentlie in waired, for pe slauchter of vmq^{le} James Wauchop, the parentis of the said James haifing lamentable futed⁵ att our handis for Justice, quhilk We of our Royall dewtie can nocht refuse. It is our Will pairfore, and We command you, that you, with all convenient diligence, eftir the sycht heirof, you proceed and minister justice vpoun the said Robert, for the slauch-

¹ Restrict.

² Uniform, undeviating.

³ Tribunals, Courts of judgment.

⁴ Besides, *forbye*.

⁵ Suited, sued, made suit.

ter of the said vmq^{le} James: And gif any difficultie aryise, that 3e vse the auise of þe wyfett and maist lernit men, in discussing þairof, quhom 3e fall adioyne to 3ow as Affessouris. And this 3e faille nocht to do, nochtwithstanding of quhatsumewir Warrant, direction or command, gewin or to be gewin to 3ow on þe contrar. As 3e will answer to ws þairvpoune; quhairanent thir presentis falbe 3our warrant. Subferyuit with our hand, At Striueling, the penult day of Maij, 1600.

(Sic subferibitur)

JAMES R.

Vpoun the production quhairof, he askit instrumentis; as also askit instrumentis, that the Justice continewit to proceid and gif Interloquutour in the said mater, quhill the tent day of this instant.

[*Mr Robert Lyntoune, substitute to the Aduocat, in his absens.*]

Jun. 10.—The samin day, George Wauchop produceit the Kingis Maiesteis Warrant, and desyrit the samin to be insert, quhairof the tennour followis.

REX,

JUSTICE, Justice Clark and 3our deputis, We greit 3ow weill. Forfamekill as it is schawin to ws, that the common cours of justice, quhilk We ar maist willing shuld be participat to our haill liegis, it is verry fair hinderit and delayit be verry friuolous subterfugeis in þe persuit intentit be George Wauchop aganis Robert Auchmowtie chirurgiane; quhairin as We of our princelie dewtie hes ewir bene of intencion, that in þat mater justice shuld haif place; swa We wald na occasioun wer gewin to þe partie persewaris justlie to mak complement to ws of þe stay of justice heirintill: Thairfore it is our command, that all excuissis sett a pairt, without ony delay quhatsumewir, 3e proceid and minister justice in þe said mater: As ye will answer to ws vpoun þe dewtiefull discharge of your office. Subferyuit with our hand, Att Falkland, the nynt day of Junij, 1600.

(Sic subferibitur)

JAMES R.

INTERLOQUUTOUR *aganis Robert Auchmowtie.*

THE Justice Repellis the haill Defenffis proponit in the twa Courtis of before, for the defender, in respect of the answeris maid thairto on the Law and vtherwyis be his Maiesteis aduocat: And thairfore, ordanis the said Robert to be put to the knowledge of ane Assyise, for the Dittay produceit be the aduocat aganis him, tuicheing the Slauchter of the said vmq^{le} James Wauchop.

Thaireftir, the said Robert declarit that he wald cum in his Maiesteis will, for the Slauchter of the said vmq^{le} James Wauchop.

The Persewaris askit instrumentis of (the) Justice Interloquutour, and that the said Robert declarit he wald cum in his Maiesteis will, for the Slauchter of the said vmq^{le} James: And thairefter, produceit ane Warrant direct fra his Maieste; quhairof the temmour followis.

REX,

JUSTICE, Justice Clark and 3our deputis, We greit 3ow weill. It is our will, and We command 3ow, that in cais Robert Auchmowtie, att his accusatioun for þe slauchter of vmq^{le} James Wauchop, becum in our will for þe samin, that 3e refuse to accept him in will, and putt him to þe knowledge of ane Assyis, proceid and minister justice vpoun him, conforme to þe lawis of our realme: As 3e will answer to ws vpoun 3our office and obedience; kepand þir presentis for 3our warrant. Subferyuit with our hand, Att Falkland, the aucht day of Junij, 1600.

(Sic subferibitur)

JAMES R.

In respect of the quhilk Warrant produceit, the Judge ordenit the said Robert to be putt to ane Assyise.

The said Robert declarit in oppin audience, in presens of God, that Johnne Auchmowtie and James Chalmeris cam nocht neir him att the combat betuix him and vni^q^{le} James Wauchop; and that thay vewit the feildis only, that the Baillie of Nudreis sonis war nocht to supplie him.

ASSISA.

William Naper merchand-burges of Edinburgh,	Robert Halyburtoune merchand- burges thair,	Johne Stenhop of Stenhop-mylne, Thomas Marschell merchand thair,
Patrik Kennedie saidler burges thair,	Alex Broune merchand thair, James Lychtoun merchand thair,	Alex ^r Fairlie of Braid thair, Andro Watfoune, merchand thair,
Johne Henderfoun maltman in Plefance,	Andro Naper merchand thair, Johne Landis merchand thair,	Johne Heriot tailzeour merchand thair.
Johne Ramsay of Quhytehill,	Johne Aitkyn merchand thair,	

VERDICT. Quhilkis personis of Assyis, being chosin, sworne and admittit, and the said Robert accusit be Dittay of the crymes abouewrittin, quhilkis war also sworne be the saidis George and Mr George Wauchopis to be of veritie; removit altogidder furth of Court to the Counsale-hous, quhair thay, eftir cheffing of the said Alexander Fairlie of Braid Chancellor, ressonit and votit vpoun the poyntis of the said Dittay; and being throuchlie avysit thairwith, re-enterit agane in Court, quhair thay, be the mouth of the said Alexander Fairlie of Braid, Chancellor, stand, pronunceit and declarit the said Robert to be fylit, culpabill and convict of the slauchter of the said vni^q^{le} James Vauchope, committit the xx day of Apryle lastwas, vpoun St Leonardis-Craigis.

SENTENCE. For the quhilk cause, the said Justice, be the mouth of Robert Galbraith, dempstar of the said Court, Ordanit the said Robert Auchmowtie to be tane to ane skaffald, besyde the mercat-croce of the burch of Edinburgh, and thair his heid to be strykkin fra his bodie; and all his movabill guidis to be escheit and inbrocht to our souerane lordis vse, as culpabill of the said cryme: Quhilk wes pronunceit for dome.

[*Mr Williame Hairt, Justice-Depute.*]

Treasonable Reset and Intercommuning with a Declared Traitor.

JUN. 11.—SIR JOHNE CRANSTOUNE of that Ilk, knyght, and Mr Williame Cranstoun, fear of that Ilk.

Comperit Mr Williame Cranstoun, fear of that Ilk, and produceit ane Warrant, direct fra his Maiestie, Ordaning the persuit aganis him and his gud-fader to be continewit, as followis.

REX,

JUSTICE, Justice Clark and your deputis, We greit 3ow weill. It is our will, and for certane caussis and consideratiounis moving ws, We command 3ow, that, vpoun the sycht heirof, 3e con-

tinew the dyet appointit for þe Lairdis of Cranstoune, eldar and 3ounger, for thair comperance befor 3ow, to vnderly þe Lawis for þe crymes contenit in our lettres direct pairanent, vnto þe xvij day of Junij instant; and on nawayis proceid aganis þame, nor þair cautioners, fund for þair comperance þat day: As 3e will anſwer to ws vpoun 3our office and obedience; keþand þir presentis for 3our War-rand. Subſeryuit with our hand, Att Falkland, the fyrſt day of Junij, 1600.

(Sic ſubſcribitur)

JAMES R.

Mr Robert Lyntoune, aduocat ſubſtitute, producit the Kingis lettres, purchest att the inſtance of Mr Thomas Hammiltoun of Druncarne, aduocat, aganis Sir Johne Cranſtoune of that Ilk, and Mr Williame Cranſtoune, fear of that Ilk, for the Reſſett of Mr Thomas Cranſtoune, ſumtyme of Morieſtoune.—The ſaid Mr Williame Crauſtoun proteſtit, in reſpect that Mr James Watſoun, miniſter of Crauſtoun, comperit and teſtifeit the ſeiknes of Sir Johne Crauſtoun of that Ilk, quha mycht nocht compeir. As alſo he comperit him ſelfſ, and wes reddie to find new (caution); that the Laird of Coldinknowis, cautioner for thair entrie be releuit; quhilk the Juſtice grantit.

James Dowglas of Caveris, ſcheref principall of Tewiotdaill, becomes pledge and ſouirtie, &c. for thair entrie the xvij day of Junij inſtant.

(Jun. 18.)—Being enterit on pannell, perſewit and accuſit be Mr Thomas Hammiltoun of Druncarne, aduocat to our ſouerane lord, for his lienes intereſs, of the crymes following: That is to ſay,

DITTAY againſt Sir Johnne Cranſtoun, kn^t, and Mr Williame Cranſtoun.

THAT quhair, it is expreſſie provydit, ſtatute and ordenit, be diuers lovabill Actis and Statutis of Parliament, that na maner of man tak vpoune hand, oppinlie and notourlie to rebell aganis our ſouerane lord; and rycht ſwa, it is ſtatute and ordenit, that nane of our ſouerane lordis liegis reſſett, ſupplie, mantene, do favouris and intercommoune with maniſeſt and notorious rebellis, and ſic as hes notoriouſlie committit Treſſoun, ather be help or be counſall, vnder the pane of treaſoun and forfealtour of thair lyffe, landis and guidis: As the ſaidis Actis and Statutis in thame ſelfſis att lenth beris, quhair of nane of our ſouerane lordis liegis juſtlie can pretend ignorance. Neuirtheles, it is of veritie, that Mr Thomas Cranſtoun, ſumtyme apperand of Morieſtoun, ffor diuers heich crymes of Treaſoun and Conſpiraceis, committit be him aganis his Maieſtie and Eſtait, in company with Frances ſumtyme Erll Bothwell, and namelie, in the Conſpiracie prakteſit att his lienes Palice of Halyruidhouſe, in the moneth of December, the yeir of God I^m.V^c.lxxxxj yeiris, being forfealtit in the Parliament haldin att Edinburgh, in the moneth of I^m.V^c.lxxxxij yeiris; and thaireftir, of new, haifing committit the lyke treaſounis and attemptatis aganis his Maieſteis perſoun and eſtait, in the monethis of Junij, Julij, Auguſt, September, October, Nouember, December and Januar, or in ane or vther of the ſaidis monethis, the yeir of God I^m.V^c.lxxxxiij yeiris, he wes ſummond to haif comperit before his

Maieftie and Lordis of Secreit Counfall, to haif anfuerit for the faidis crymes and attemptatis ; and for his nocht comperance, wes decernit to be demunceit our fouerane lordis rebell, and putt to the horne ; and in refpect thair of, be expres Act of his hienes Secreit Counfall, maid att Striueling, in the moneth of Februar, the yeir of God I^m.V^c.lxxxxiij yeiris, it wes ftatute and appointit, that nane of our fouerane lordis liegis fould tak vpoun hand to refett, fupplie or intercommon with the faid Mr Thomas, or to furneis him meit, drink, hous, harbrie, nor vtherwyis haif intelligence with him, priuatlie or publictlie, be lettres, meffageis or ony vther maner of way, vnder the pane of Treaſoun. AND yit the faid Mr Thomas, continewing in his former Treaſoun and rebellious, he of new, in the moneth of Apryle, the yeir of God I^m.V^c.lxxxxiij yeiris, come in company with the faid Frances funtyme Erll of Bothwell, James Dowglas funtyme of Spott, v^mq^{le} Hercules Stewart, brother to the faid Frances, v^mq^{le} Archibald Wauchop funtyme younger of Nudrie, and diuers vtheris his Maiefties rebellis, forfaltit traittours, afflitit with certane clannit men of the Bordour, oppin thewis and rebellis, to the number of fax hundreth men, bodin in feir of weir,¹ with jakis,² ſpeiris, ſteil-bonnettis, hagbuttis, piſtolettis and all vther weirlyke prouiſiounis, and in profeſſit hoſtelitie, with cumpaneis of wad-geit³ men, diſplayit cornettis and bennaris, cam to the toun of Leith ; and thair-eftir, in thair retreit, betuix the Wowmet-edge and the Borrow-mure of the burch of Edinburgh, his Maieftie being in proper perſoune vpoune the feildis, invadit and perſewit diuers our fouerane lordis faithfull ſubiectis, perſewit thame for thair flauchteris, with drawin ſwordis, ſperis and ane grit number of ſchottis of hagbuttis and piſtolettis, and woundit ane number of thaim, to the grit effuſioun of thair blude, tuik diuers perſounes, ſpuilzeit thame of thair horſſis, armour and guidis : Quhairby, the faid Mr Thomas, being vpoun the ground, ane of the cheif leidaris and conductouris of the faidis rebellis, committit publict, profeſſit and maniſeſt Treaſoune : And continewallie ſenſyne, knawing his guiltines in the faidis crymes being notour, hes bene fugitiue fra the lawis. Quhilkis rebellious being ſa grit and maniſeſt, and quhilkis of thame ſelfis fould haif movit all the guid ſubiectis of the realme, to haif refuſit quhatſumewir maner of aid and ſupplie to the faid Mr Thomas : Yit it is maiſt trew, that Sir Johne Crauſtoun of that Ilk, knyght, cheif and ſpeciall kynniſinan to the faid Mr Thomas, and Mr William Crauſtoun, fear of that Ilk, brother to the faid Mr Thomas, quha could nawyis miſknaw the faidis Conſpiraceis, treaſounis and rebellious, diuers and findrie tymes ſen the faidis yeiris, I^m.V^c.lxxxxiij and lxxxxiij yeiris, bot ſpeciallie in the monethis of Januar, Februar, March, Apryle, Maij, Junij, Julij, Auguſt, September, October, November and December, in the yeir

¹ In warlike array.² Short coats of chain or plate mail.³ Hired.

of God I^m.V^c.lxxxxix yeiris, att the leift in ane or vther of the faidis monethis, willinglie and wilfullie Reffett, fuppleit, intercomonnit, gaif acid and counfall, hous and harbrie, meit and drink to the faid Mr Thomas Cranftoun, in his duelling-place of Nether Craling, fuppleit and intercomonit with him thairin, be the fpace of diners dayes and monethis, att thair pleafour; quhairby thay and ather of thame hes contrawenit the lawis, statutis and Actis of Parliament and Secreit Counfall, and hes incurrit the panis thairof, viz. of Treafoune and ffoirfaltour of thame felffis, thair lyffis, landis and guidis; quhairin thay aucht to be convict, in example of vtheris to comitt the lyke attemptatis in tyme cuning.

AND the faidis Sir Johnne and Mr Williame Cranftounis, being inquyrit, gif thay wald abyde the tryall of the law and of ane Affyfe, for the cryme foir-faidis; thay produceit the LETTER vnder writtin, for anfuer.

WE will nocht contend with his Maieftie; bot in pis mater, as in all vper thingis, we ar content to fubmitt our felffis to his Maieftis guid pleafour and will; protefting alwyis, that we can newir acknowledge our felffis to be giltye of ony cryme or offence; and fa, befeikis his hienes to confidder of ws, as of his Maieftis maift obedient faithfull and humble fubiectis.

(Sic fubferibitur) CRANSTOUN, W. CRANSTOUN.

The Juftice, nocht being auisit with the anfuer, continewis this mater to the morne, qu' ill he vnderftand his Maieftis mynd thairanent: And Ordanit the faidis Sir Johnne and Mr Williame Cranftoune to keip thair houffis.

(Jun. 19.)—The faidis Sir Johnne Cranftoune and Mr W^m Cranftoune tuik instrumentis of thair comperance, and proteftit for releif of thair fouirtie; and thaireftir produceit the Warrant vnderwrittin, quhairof the tennour followis.

REX,

JUSTICE, Juftice-Clark, oure Aduocat and 3our deputtis. It is our will, that Sir Johnne Cranftoun of pat Ilk, kny^t, and Mr Williame Cranftoun, fear pairof, be commandit to pair ludgeing, without finding of ony cautioune for pair comperance befor 3ow heireftir: Quhairanent pir presentis falbe 3our Warrant. Att Haliruidhous, the xix of Junij, 1600. (Sic fubferibitur) JAMES R.

The quhilk Precept the Juftice admittit, and ordanit the faid Sir Johnne Cranftoun and Mr Williame Cranftoune to pafs to thair ludgeing.

Hurting an Ox in the Plough—Pannel Banished.

JUN. 14.—GEORGE DEMPSTAR, fone to David Dempstar, citiner,¹ (in Brechin).

Dilatit of hurting of ane ox pertening to Thomas Collace of Pitforquhie, with twa ftraikis in the bak, quhilk ox was gangand in his pleuch, teilland his ground of the landis of Pitforquhie; committit in the moneth of Marche lafbypaft.

The faid George declaris, that he wald cum in his Maieftis will for the faid crime.—The Juftice declaris, he will put him to ane Affyfe.

¹ Citizen or 'indweller;' not a burges.

SENTENCE. The Affyis, be the mouth of thair Chancillar, Andro Wod, brother to Balbegno,¹ stand the said George to be ffylit, culpabill and convict.

The Justice delyuerit the said George Dempstar to Thomas Geddes, baillie, to be re-enterit in waird within the Castell of Edinburgh, quhill his Maiestes mynde wes knawin anent the dome.

DOME aganis George Dempstar.

Sentence was not pronounced, until Jul. 4, when the following entry occurs in the Record.—The said George Dempstar produceit his Maiesteis Warrant, quhairof the tennour followis.

REX,

JUSTICE, Justice-Clark and 3our deputis, We greit 3ow weill. Forfamekill as George Dempstar, sone to David Dempstar, citiener in Brechin, being convict before 3ow, in ane Justice-court, hauldin in our tolbuith of Edinburgh, the fourtene day of Junij lastbypast, for pe hurting of ane ox pertening to Thomas Collace of Pitforthie, quhilk wes teilland the ground of pe landis of Pitforchie; wes committit to ward, within our Castell of Edinburgh, quhill our mynd wes declarit pairanent: Thairfore, we command 3ow, that, eftir the sycht heirof, 3e caus present him on pannel, and pronounce dome, That he be Baneist our realme, during our will, for pe said cryme; and that he pass furth pairof, within fourtie dayis eftir pe dait heirof; and nocht to returne pairin, but our speciall licence; vnder pe pane of deid: ffor pronuneeing qubairof, thir presentis falbe 3our warrant. Subferyuit with our hand, Att Halyruidhous, the thryd day of Julij, 1600. (Sic subfcribitur) JAMES R.

According to the quhilk Warrant, the Justice-depute, be the mouth of James Lowrie, dempstar, Ordenit the said George Dempstar to be baneist this realme, during our souerane lordis will; and to pass furth thairof, within fourtie dayes eftir the dait heirof; and that he returne nocht thairin, but speciall licence of his Maiestie; vnder the pane of deid.

[*Mr Robert Murray, Justice-Depute.*]

Wearing and Shooting of Hagbutis and Pistolets, &c.

JUN. 24.—ADAM SCHAW, (in Castell-Cawill), brother to George Schaw of Glenmure.

Comperit Johne Halyday, aduocat, and produceit ane Precept, direct be the Kingis Maiestie; quhairof the tennour followis.

REX,

JUSTICE, Justice-Clark and 3our deputis, We greit 3ow weill. It is our will, and We command 3ow, that, vponne the sycht heirof, 3e continew the criminall actioun persewit att pe instance of our aduocat aganis Adam Schaw of Glenmure, for bering and schuting with hagbutis and pistolettis,² contrar pe tennour of our lawis and Actis of Parliament, vnto the fyrst day of Julij nixt;

¹ The others were Alexander Keyth, sone to the Laird of Ludquharne, Johne Ramfay callit of the Forth, James Ramfay of the Rinde, Thomas Wilkie portioner of Sauchton, Johne Dunbar of Moynes, Johne Stevinfoune of Hermefcheillis, George Barroune of Kynnauld, Nicoll Dalzellmylne, Andro Brodie, Alexander Horfburch of Harkes, Archibald Hammiltoune, smyth, and Williame Broune, indueller in Edinburgh.

² He is dilated 'for bering, wering and schuting of pistolettis, and hurting and wounding of George (Charles?) Campbell of Horfclench in pe rycht arme.'

and refflaue new caution conforme to þe ordour ; as 3e will anfuer to ws pairvpoune : Quhairanent thir presentis falbe 3our Warrant. Subferyuit with our hand, Att Halyrudhous, the xx day of Junij, 1600.

(Sic fubfcribitur) JAMES R.

The Justice, nochtwithftanding of the Precept produceit, vnderftanding his Maieftis mynd, continewis the mater to the morne. Gylbert Pennycuik (of that Ilk) becomes pledge and fouirtie, &c.

Jun. 25.—Charles Campbell of Horfeleuch produceit the Kingis Maieftis Precept, ordaining the Justice to continew the perfuit to the xxvij day of Junij infant, &c.

Jun. 27.—Gylbert Pennycuik of that Ilk amerciatis in the pane of ffour hundreth markis, for non-production of the faid Adam Schaw ; who is ordanit to be denunceit our fouerane lordis rebell, and putt to the horne, and all his movabill guidis to be efcheit, &c.

[*Mr William Borthuik, Justice-Depute.*]

Wearing of Pistolets, &c.—Remission on Payment of Fine.

Jul. 1.—GEORGE SCHAW of Glenmure.

Being enterit on pannell, as he that was lawfullie fummond to compeir befor the Justice or his deputtis, to heir his hienes will declarit, anent the bering and wering of pistulettis.—Comperit lykewyis Andro Lord Stewart of Vchiltre, and produceit ane Precept direct fra his Maieftie, &c.

J. REX,

JUSTICE, Justice-Clark and 3our deputtis, We greit 3ow weill. Forfamekill as George Schaw of Glenmure become in our will, in ane Court of Justiciarie, haldin in þe Tolbuith of Edinburgh, the xvij day of Maij laftbypast, for bering, wering and fcluting with hagbutis and pistulettis, and hurting of Charlis Campbell of Horfeleuch pairwith ; as ane Act maid pairvpoune beiris : Sen the quhilk day, the faid George hes payit and delyuerit to ws þe fowme of ffyve hundreth markis, in full fatisfactionne of our will for þe faid cryme thairfoir : And for declaratioun of our faid will, wit 3e, that We haif Remittit, and be þir presentis Remittis, the faid George Schaw for þe faid cryme, and renounceis and difchargeis all actionne, tryell (criminal) and civil, that We, our Thesaurer or aduocat may haif aganis þe faid George Schaw, for þe famyn cryme : Difchargeing our Thesaurer and Aduocat of all calling, trubleing or perfewing of him pairfoir, in tyme cuming. And þis We pronunce to be our will ; and caufe þir presentis to be infert and regiftrate in our buikis of Adiornall, *ad perpetuam rei memoriam* : Quhairanent thir presentis falbe 3our warrant. Subferyuit with our hand, At Halyrudhous, the first day of Julij, 1600 3eiris.

(Sic fubfcribitur) JAMES REX.

Quhilk Precept being red and produceit in jugement, the Justice authoreifit the famyn to haif full effect to the faid George Schaw for the faid cryme, conforme to the tennour thairof in all poyntis. Quhairvpoun the faid George askit actis and instrumentis.

[*Mr Williame Haert, Justice-Depute.*]

Abiding from the Raid of Dumfries.

Jul. 2, 3, & 4.—JOHNE ROSS of Drumgrange, George Logane of that Ilk, James Boifwell, feare of Auchinlek, Johne Boifwell of Duntrine-gemen, Robert Mure of Knokmarloch, Robert Wallace of Holmestoune, Hew Wallace of Boigheid, W^m Cwninghame of Polquharne, George Schaw of Glenmwre, and W^m Wallace of Lytill Cefnok.

Dilatit for abyding fra the Raid of Drumfreis, ordenit to haif convenit with Archbald Erll of Angus Lieutenant, in September lastwas.

[A variety of procedure takes place, in these and some other similar cases, but not of sufficient importance to be inserted at length. Some of the parties are fined, others discharged, &c.]

Adultery.

Jul. 10.—ALEXANDER HAY of Delgattie.

George Sinclair of Maij and James Forbes of Lethindie, become pledgeis and fouerteis, conjunctlie and fenerallie, for Alex^r H. of D., that he fall compeir be-foir the Justice or his deputis, &c., the xvj day of Julij instant; for the cryme of Adulterie, committit with Barbara Forbes, his alledgeit spous.—Johne Frafer of Strichin, cautioner for his entrie, is relieved of his caution.

Jul. 16.—The case is continued to the next Justice-air of ‘Abirdene, tertio Itineris, (vel premonitione,) xv dierum.’ Williame Rois of Kilraik becomes pledge for his appearance.

Slaughter — Hurting and Wounding.

Jul. 15.—JAMES MAISTER OF OGILVIE,¹ Sir Johne Ogilvie of Craig, Mr David Ogilvie, Frances Ogilvie, all brether; James Gordoun, fernand to the Maister, Patrik Guthrie of Pitmowes, Johnne Barclay, sone to George Barclay of the Syde.

Dilatit of airt and pairt of the slauchter of vmq^{le} Patrik Rynd, sone to W^m Rynd of Kerfe; and of hurting of Alex^r Lord Spynie, in the heid; committit in March lasthypast.

Mr Olipher Colt produceit ane Warrant, direct to the Thesaurer and Aduocat for deleiting of Patrik Guthrie; quhairof the tennour followes.

REX,

THESAURER and Aduocat, We greit 3ow weill. It is our will, and We command 3ow, that, vpoun the sycht heirof, 3e deleit Patrik Guthrie of Pitmoweis furth of þe criminall summeondis

¹ See Jul. 25 and 29, and Aug. 14.

rafit at your instance aganis the Mr of Ogilvie, and sic as accompaneit him on pe feildis att pe late Conflict betuix him and our coung the Lord of Spynie; fwa that he be nawyis callit nor perfewit thairfore: As 3e will anfuere to ws vpoun your offices and obedience: Qulhairnent thir presentis falbe your warrand. Subferyuit with our hand, att Halyruidhous, this xxvij day of Junij, 1600.

(Sic fubferibitur) JAMES R.

Quhilk Precept, the Justice, with auife of Alexander Maifter of Elphinstoun, and Mr Thomas Hammiltoun, admittit; and ordenit na proces aganis the said Patrik Guthrie nor his cautioner.—The Lord Advocate having produced a Warrant from the King to that effect, the Justice continued the case to the xxv of July.

Slaughter.

Jul. 24.—HECTOR BANNATYNE of Kames.

Dilatit of airt and pairt of the slauchter of vniq^{le} Johne Spens of Vester Kames.

PERSEWARIS, Niniane Spens, eldest sone, Patrik Maxwell of Newark, George Spens in Edinburgh, Mr Sanderis Maxwell.

PRELOQUOUTOURIS for the pannel, Mr Thomas Craig, Mr Johne Russell, Sir Johnne Hammiltounne, the Lard of Garthland, the Lard of Corhous.

The persewaris takis Instrumentis of the productionne of the lettres, and takis instrumentis for releif of his cawtionne.—Alledgeis, that na preloquoutour can be hard, nor yit aucht the defender to be hard, becaus the defender is att the horne for the said cans; as the lettres dewlie execute and indorfat, produceit, beiris.—Anfuereis the preloquoutouris, that the partie may procur¹ for him self; and thay will compeir vpoun thair awin perrell; and declaris thay accept the Horning.—And it is alledgeit for the pairt of the said Hector Bannatyne, and alledgeis, that the famin is null, becaus in Act of Parliament, in anno lxxxxvij² (1597), it is speciallie provydit, that all executiounis of Horningis falbe registrat in presens of the Shereff-clark, ane notar, and foure witneffis; quhilk is nocht done, becaus the executiounis of the Hoirning is nocht registrat, conforme thairto.—Anfuereis the persewaris, that the lettres and executiounis ar sufficientlie registrat; and abydis at the lettres, executiounis and registratioun, as thay ar produceit, and ar sufficient: And forder alledgeis that the Justice is nocht Judge to the nullitie of the Horning.

The Justice ordanis the preloquoutouris to compeir in defence, nochtwithstanding of the Horning produceit.

Forder, (the persewar) alledgeis, that the preloquoutouris can nocht compeir, in respect of ane Horning produceit, be the quhilk the Lard of Kames is denunceit att the instance of Ninian Stewart, fear of Kilchattan, for nocht reslauing of the said Ninian immediat tennent to the landis contenit in the lettres, of the dait the

¹ Procure, *i. e.* act as procurator, speaker, or counsel, in his own behalf and defence. ² Acta Parl. 1597, cap. 36, fol. 139.

xj August 1592 3eiris.—Anfueris the preloquoutouris, that the Hoirning is null, in respect the executionis ar nocht registrat.

The perfewaris passis fra thair alledganceis producit be thame, for this day only, &c.

Alledgeis, that Ninian Spens can nocht perfew in judgement, becaus he is minor, vnauthorisit with tutouris and curatouris.—The famin day, the said Ninian creat Patrik Maxwell of Newark and Mr Alexander Maxwell curatouris *ad lites*. The pannell askis instrumentis, that the Laird of Newark and Mr Sanderis¹ ar chosin preloquoutouris.

Alledgis that this mater can nocht be put to the knowledge of ane Assyse, for the cryme, albeit he wer nocent,² (he being maist innocent;) becaus the said vmq^{le} Johnne Spens wes lauchfullie denunceit rebell and put to the horne, vpoun the fourt day of Julij 1592 yeiris, att the instance of the said Hector Bannatyne and Charles Bannatyne, for nocht obedience of ane Decreit of the Lordis of Counfall; quhilk Hoirning wes registrat vpoun the famin fourt day of July 1592 yeiris; as the famin, producit, beris.—The perfewaris askis instrument of the alledgeance.

The perfewaris alledgis, that the Horning is null, becaus he is relaxt; as the lettres of Relaxatioun and executiounis producit beris.—The defender acceptis the Relaxatioun; and anfueris, that the said vmq^{le} Johnne Spens fluid rebell, be vertew of the Horning producit, nochtwithstanding of the Relaxatioun; becaus it is of veritie, that he is denunceit rebell at the instance of twa speciall parteis, viz. at the instance of Hector Bannatyne of Cames, in the fyrst place; and lykewyis at the instance of Charles Bannatyne, in the secund place, and for diuerse caussis and for diuers effectis: And trew it is, that this Relaxatioun producit relaxis him fra the horne, insafar as he wes put to the horne at the instance of Charles Bannatyne, and nawyis is relaxt fra the horne, insafar as he is at the horne at the instance of the Laird of Cames, and for ane caus only; quhairas the Decreit hes mair caussis quhairvpoun the saidis lettres procedis; and swa, he standis yit effectuellie at the horne, at the instance of the Laird of Cames, as yit vnrelaxt: And forder, the Laird of Cames is nather summond nor appointit to be summond be the suspentioun. And forder, the said relaxatioun is null, becaus the executioun of the Relaxatioun is nather stampit nor subscriuit; quhairas the Act of Parliament Ordanis the executioun to be stampit with twa lettres:³ And repetis the Act of Parliament maid in the tyme of King James Fyft.—Thrydlie, the said Relaxatioun is null, in respect thair is na officer contenit in the letteris of Relaxatioun.—Thaireftir, the perfewaris producit the extract of the relaxatioun.

¹ Viz. Mr Alexander Maxwell.
Messenger's or Officer's name.

² Guilty.

³ Viz. With a seal, bearing the Initials of the

Anfueris the perfewaris, *ffyft*, that the officer relaxis the said vniq^{le} Johnne Spens, for the caussis contenit in lettres of Horning, and hes suspendit the officer executour of the horning fra ony forder executioun, for the caussis contenit in the Decreit of the Lordis; and thairfore, before ye tak away the Relaxatioun, the Judge can nocht cognos vpoun the nullitie of the Horning, bot the Lordis¹ man be Judgis thairto. As for the *secund* pairt, allegis that the said lettres of Relaxatioun ar sufficientlie stampit; as the extract of the Relaxatioun beris. *Thridlie*, declaris that the officeris name is contenit in the extract, and the officer makis mentioun of the officeris stamp as affixit, as the samin beris. Forder, alledgis, that thay will abyde be the principall Lettres of Relaxatioun and the extract thairof; and gif thair be ony difference betuix the principall and the extract, wyte² the extractor.

The Justice Continewis the mater to the morne.

The samin day, Hector Bannatyne of Cames, being sworne, Declarit that he dred³ bodelic harme of Patrik Maxwell of Newark, Mr Sanderis Maxwell his brother, and Ninian Stewart of Kilchattane.

Jul. 25.—The Cafe continued to the Justice-air of ‘Buit, tertio Itineris, xv dierum.’ Plegio, Domino Johanne Hammiltoune de Litrik milite.

Slaughter — Hurting and Wounding.

Jul. 25.—JAMES MAISTER OF OGILVIE and others.⁴

PERSEWAR, Mr Thomas Hammiltoune of Drumcarne, aduocat to our souerane lord.

PRELOQUUTOIRIS for the pannell, Mr Johnne Russell, William Oliphant, Francis Erle of Erroll, Erle of Buchan, The Lard of Fyndlater, My Lord of Aldbar.

Mr David and Frances Ogilveis ar content presentlie to abyde the tryell of ane Assyis. The remainder of the pannell, declarit, that they wald nawyis enter in proces with his Maiesteis aduocat, for the cryme contenit in the lettres, insofar as his hienes hes action competent to thame for the samin crymes, or ony of thame; bot offerit thame felfis in his grace will thairfore; protesting that thair becuming in will, &c. fould nawyis be hurtfull or preiudiciall to thame or nane of thame, for quhatsumewir actione or exceptionne compitent to thame or ony of thame, aganis quhatsumewir persoun or persounes, haifing interes to persew for the saidis crymes; quhairvpoun the said Mr Thomas Hammiltoune askit instrumentis.

The Justice continewis the mater to the morne; and warnit the Assyis to the morne.

¹ Of Council and Session. ² Throw the blame upon the Extractor. ³ Not *dreed* (suffered), but feared or *dreaded*. Letters of Lawburrows appear, by the Record, to have been granted against these parties, which were afterwards deleted as ‘past fra be pe Lord of Cames.’ ⁴ See Jul. 15 and 29, and Aug. 14.

The Justice, in our fouerane lordis name, acceptit the pannell (and other under named) in his hienes will for the crymes aboue writtin ; and Ordenit thame to pass in waird to thair ludgeingis within this burch of Edinburgh, and to remain thairin quhill thay be fred be his Maiestie : And to that effect, to find cautionne to keip thair said waird, ay and quhill sufficient cautionn be fundin be thame that thay fall satisfie his Maiesteis will to be declarit.

James Ogilvie of Balfoure becomes pledge and fouertie for James Maister of Ogilvie, &c., as above, ' vnder the pane of Fyve thousand poundis.' Sir Johnne Ogilvie of Innerquharratie kny^t, becomes pledge and fouirtie for Mr David O., Frances O., brether to James M^r of O., and Johnne Barclay, that thay fall compeir befor our fouerane lordis Justice or his deputis, the thryd day of the nixt Justice-air of the sherefdom of Forfar, or soner quhen or quhair it fall pleis our fouerane Lord, vpoun xv dayis warning, &c.

Shooting of Hagbutis and Pistolets — Hurting and Wounding.

Jul. 26.—JOHNNE OGILVIE, callit *Reid-Johnne*, Alexander Ogilvie, callit *Blak-Sandie*, James Ogilvie of Boigfyde, Johnne Barclay sone to George Barclay of the fyde, and Johnne Lyoune, seruand to the Maister Ogilvie.

Dilatit of bering, wering and schuting of hagbutis and pistolettis ; and for hurting of Alexander Lord Spynie, &c.

The parteis ' became in will ;' and found caution, as in the former case.

Abiding from the Raid of Dumfries.

Jul. 29.—GEORGE KENNEDIE of Glenmuk,

Dilatit for abyding fra the Raid of Dumfries, quhilk was convenit with Williame Erle of Angus, Lord Dowglas, and Lieutenant, in the moneth of September lastbypast.

The pannel become in our fouerane lordis will thairfore. And thaireftir the said George produceit his Maiesteis will ; quhair of the tennour followis.

REX,

JUSTICE, Justice Clark and your deputies, We greit you weill. That nochtwithstanding George Kennedie of Glenmuk obtenit oure Licence, with certane v^{rs}, for ye caus following, zit he is to entir on pannell before you, in our Tolbuith of Edinburgh, the xxix day of Julij instant, in ye hour of caus, and is to be persewit be our traist coung and counsalour Alex^r Maister of Elphinstoun, our Thesaurer, and Mr Thomas Hammiltoun of Drumcarne, our aduocat, for abyding fra our Raid of Drumfries, hauldin be our rycht traist coung and counsalour Williame Erle of Angus, in ye moneth of September lastbypast ; and at ye said day is contentit to cum in our will for ye said cryme. Thairfore ye fall, incontinent eftir ye sycht leiros, ressaue the said George Kennedie in our will ; and pronounce and declair this to be our will, as followis : That the said George, before he pas aff pannell, con-

tent and pay to our Thesaurer the fowme of ane hundreth poundis; and that in full satisfiounne of our will, for his abyding fra the said Raid; and forder pronunce and declair, that the said George Kennedy salbe remittit and forgewin of all vp^r pane and penaltie that we may lay to his charge, in tyme cuming, for abyding fra pe said Raid; and that he be nawyis callit, trublit, molestit nor perfewit for pe famin, in tyme cuming; nochtwithstanding of ony vp^r Warrant that may be direct in pe contrar heir-of: And eaus thir presentis be regiftrat in our buikis of Adiornall for the said Georgeis better securitie. Subferyuit with our hand, At Lynly⁴, the xxvij day of Julij 1600 5eiris.

(Sic subferibitur) JAMES R.

The Justice, with auife of the Thesaurer, continewit the mater to the morne, quhill the Thesaurer wer auifit with the blank contenit in the said Letter.

Shooting with Hagbuts and Pistolets — Slaughter.

Jul. 29.—ALEXANDER LORD OF SPYNIE,¹ Sir Johnne Lyndefay of Balinscho, (Wodheid knyght,) Alexander Lyndefay of Faisdew, (Fesdow,) Harie and Gilbert Rind (sonis to Williame Rind, of Kerse,) Harie Lyndefay, sifter sone to the Laird of Pitcarlie, (servitour to the said nobill Lord,) Andro Brydie, Mr Patrik Lyndefay, David Balfour, brother to Burlie, James Lyn, Preift, David Lyndefay, father brother to the Laird of Blariefedden, Alexander Lyndefay at the myll of Fynevin, David Gardin of Leis, and Harie Lyndefay of Blariefedden.

Dilatit for contravening of the Actis of Parliament, in bering, weiring and schuting with Hagbutis and Pistolettis: And for art and part of the Slauchteris of vmq^{le} Lowrence Burne and James Irnis, seruitouris to the Maister of Ogilvie and Sir Johnne Ogilvie.

PERSEWAR, Mr Thomas Hammiltounne (of Drumcairne, aduocat to our souerane lord.)

PRELOQUUTOURIS for the pannell, Mr Johnne Scharpe, Mr Alex^r King, and Mr Thomas Wilfounne.

The Lord of Spynie produceit the Kingis Warrant, vndervrittin, desyring the famyn to be admittit; and declarit that he and the personis on pannell vald abyde thairat; quhairof the tennour followis.

REX,

JUSTICE, Justice Clark and 5our deputis, We greit 5ow weill. Forfamekill as, vpoun pe xvij day of jis instant, Alex^r Lord of Spynie and certane his compliceis and pair cautioneris wer adjudgit and decernit in certane panis and vnlawis, for pair nocht entrie and comperance before 5ow, our said Justice and 5our deputis, to haif vnderlyne our lawis, for certane crymes specifeit and contenit in pe Criminale lettres rasit pairvpoun: Nochtwithstanding, ffor certane caussis moving ws, It is our will, and we command 5ow to dischARGE the saidis vnlawis, and deleit the Actis furth of our buikis of Adiornall, quhairby thay wer decernit in the saidis vnlawis, swa that na executioun follow pairvpounne heireftir: And that 5e tak new cautioun of pe said Lord and his compliceis, that thay fall compeir before 5ow, our said Justice, and 5our deputis, vpoun pe xxix day of jis instant, and vnderly our lawis for pe crymes specifeit in our saidis lettres: And that thay fall renunce all exceptioun of nocht lauch-

¹ See Jul. 15 and 25, and Aug. 14.

full citatioune, vpoune fyftene dayis warning; fwa that, in caife of pair nocht comperance, thay may alfweill be denunceit to our horne as thair cautioneris vnlawit, in refpect of pis our favour now fchawin vnto pame: As 3e will anfuer to ws pairvpoun: Quhairanent thir presentis falbe 3our War-rand. Subferyuit with our hand, Att Halyrudhous, the xvij day of Julij 1600 3eiris.

(Sic fubferibitur)

JAMES R.

Comperit Alex^r Lord of Spynie, Sir John Lyndefay of Wodhead, knyght, &c., quha denyit expreflie that poynt of the fummondis anent the fchuting, bering and wering of hagbutis and piftolettis in maner lybellit, and offerit to abyde tryell thairanent: And in fafar as the fummondis may appeir onye cryme, anent the flaughter of vmq^{le} Lowrence Burne and James Irnis, vpoune the fourt day of Marche laft, declarit and affermit that quhat ever fell out thairanent, was in thair maift juft and lauchfull defence; as is manifelt be the Confeflioune of partie and act of Adiornall maid thairanent, vpoun the xxv day of Julij instant, be James Maifter of Ogilvie, Sir Johnne Ogilvie of Craig, and thair compliceis, than comperand on pannell; quha being convenit, adiornayit at the instance of his hienes aduocat for his Maieftis interes vpoune the faid xxv day of Julij instant in this Jugement, lying await for the faid nobill Lord, his kyu and freindis, for thair Slaughter and vmbefetting of thair hie-way befide the place of the Leyis, as thay war rydand furth the way, in fober and quyet maner; the faid Maifter, Sir Johnne and thair compliceis, vnderftanding be thair fpyis and watcheis, that the faid nobill Lord was to cum furth of his duelling place of Kinbrakmouth to the Place of Gairdyn; the faid Maifter, Sir Johnne Ogilvie and thair compliceis, vpoune fet purpois, provifionne and foirthocht fellonye, ad-dreft thame felffis, in armes and wappynnis invafive, with hagbuttis, piftulettis, jakis, fecreittis, fteilbonettis, gauntilettis, lance-ftaffis and vtheris, to the nowmer of perfonis or mae; and thair fchot, thair hagbuttis and piftulettis at the faid nobill Lord, his kyn, freindis and ferwandis, being in company with him, hurt and deidlie woundit the faid nobill lord in the heid, and left him lyand for deid; and crewallie, with thair hagbuttis and piftolettis, fchot vmq^{le} Patrik Rynd his ferwand throw the bodie to the deid, vpoune the fourt day of Marche laftby-paft; as in the fummondis perfewit thairanent and act of Adiornall maid thairvpoune, at lenth is contenit. AND trew it is, that James Maifter of Ogilvie, Sir Johnne Ogilvie of Craig and thair compliceis, pannellit, comperand perfonalie vpoune the faid xxv day of Julij instant, become in his Maieftis will for the faidis haill crymes and poyntis of the faidis Summondis, be Act of this Court, as the famin beris; and thairby hes confeflit and affermit the famyn crymes, Slaughter, fchuting of piftolettis to that effect, invafionne, perfuit, lying await and vmbefetting of the faid Nobill Lord, his kyu, freindis and company, in his hie-way and paffage frome his awin hous, rydand thairfra in fober and quyet

maner, as faid is ; quhairbye it is evident, that quhatever fell out be occasioun fairsaid, on the pairt of the faid nobill Lord, was in his awin maist just and lawfull defence, and remanent on pannell, his freindis and cumpany ; as is expresse affermit be the faid Act of Adiornal and Confessioun of pairtie thairanent. The quhilk Act of Adiornall and summondis quhairvpoun the samyn procedit, with the haill poyntis and menneris thairof, the faid nobill Lord and remanent personis on pannell repeittis, &c. ; and yit, insofar as the faid summondis now perfewit may appeir to import ony cryme for the slauchteris fairsaidis, the faid nobill Lord, &c. declarit that thay vald nawyis enter in proces with his Maiestie or his hienes aduocat for the samyn slauchteris, insofar as his hienes may haif actione compitent thairfor, in thair contrair ; bot offerit thame in his graces will for the famin Slauchteris, committit in thair defence, as faid is ; protesting, that this thair offer or becuming in will for the faid slauchteris, for his hienes interes, as faid is, fall nawyis be preiudiciall to thame or ony of thame, anent quhatsumewir action or exceptione compitent to thame, or ather of thame, aganis quhatsumever personne or personis haifand interes to perfew for the samyn Slauchteris, as accordis of the law : Quhairvpoun the faid nobill Lord and remanent personis on pannell askit actis and documentis.

The Aduocat askit actis and instrumentis, that the faid Alex^r Lord of Spynie, &c. becom in will, as faid is.

The famin day, Alexander Maister of Elphingstoune produceit HIS MAJESTIES WILL, *towards my Lord of Spynie* ; quhairof the tennour followis.

REX,

JUSTICE, Justice Clark and your deputtis, We greit ȝow weill. Foramekill as Alexander Lord of Spynie, Sir Johne Lyndefay of Wodheid, knycht, David Gairdyn, Harie and Gilbert Rindis, David Balfoure, David Lyndefay, Harie Lyndefay feruitour to the faid nobill Lord, Alexander Lyndefay of Faislow, ar becom in our will, for the slauchter of certane our subiectis, committit be pame in the Conflict, quhilk happynnit and fell out betuix pame, and James M^r of Ogilvie and pair complices ; howewir the same be allegit to haif bene committit in pair awin defence. Thairfor it is oure will, and We command and ordane, that the faid Lord of Spynie, for him selff, and takand the burding ou him for his faid brother and remanent complices fairsaid, fall remane and keip waird in his ludgeing, within our burch of Edinburgh ; and on nawyis remove pairfra, quhill We declair our will towardis pame ; vnder the pane of Fyve thousand pundis : As alwa that he, for him selff, and takand þe burding on him as faid is, fall satisfe and fullill our will to be declarit as faid is, vnder the faid pane. And that ȝe cause pronunce þis our will and pleafour aganis the faid Lord and his complices indiciallie ; and mak ane act pairvpoun : Quhairanent þir presentis fallbe ȝour warrand. Subscryuit with our hand at Lynlthqw, the . . . day of Julij, 1600 ȝeiris. (Sic subscribitur) JAMES R.

According to the quhilk, the Justice Ordanit, &c. Harie Lyndefay of Kynfawnis become plege and fouerte for Alexander Lord of Spynie, &c. vnder the faid pane.

Harie Lyndefay of Blariefedden, Mr Patrik Lyndefay, Alexander Lyndefay

at Fynnevin-mylne, James Lyn and Andro Brydie, tuke instrumentis of thair comperance, and that they offerit thame reddie to abyde the tryell of ane Affyis of the crymes contenit in the lettres produceit aganis thame. Whereupon the Justice continued the matter to the Justice-air of 'Forfar, tertio Itineris, vel super premonitione xv dierum.' Alexander Lord of Spynie, becomes 'plege and fouerte' for their entry.

[Mr Williame Hairt, Justice-Depute.

ASSESSOURIS, Mr Edward Bruce and Johne G . . . stoune.]

Fire-raising — Houghing of Cattle — Murder — Theft — Resetting Rebels, &c.

Jul. 29.—JOHNE ROISE of Ballivot.

Dilatit of the Burning of the (duelling hous of) Clunie, pertening to George Dunbar thair ; And for the thefteous Steling of the said George Dunbaris hail infycht and pleineiffing (guidis and geir, to the valour of) twa thowfsand markis worth, ten horsis, threscoir nolt ; And for Hoching of xvij oxin and ky pertening to the said George :—*Item*, for airt and pairt of the Slauchter of vinq^{le} Robert Roife, (sone to David Rose of Lyne) :—*Item*, for the Murthour of Huchfoune Roife in Logy : And for reslett of David (M^cWilliane) Roife Williamfoune and vtheris, rebellis at the horne, for the thift abouewrittin : And for Commoun Thift ; as at lenth is contenit in the dittay.

The Justice-Depute produceit the Warrant vnderwrittin.

REX,

JUSTICE, Justice Clark and your deputis, We greit you weill. It is oure will, and We command you, that according to our former directionne, ye put Johnne Rois of Balliwot to the tryell of ane Affyis, the morne, the xxix day of July instant, for sik crymes as he is dilatit and suspect gyltie of ; and befor his putting to the same tryell of ane Affyis, that ye reaxaminat him vpoune his faul and conscience,¹ for the better clering of the treuth of sik thingis as war inquyrit of him ofbefoir : As ye will ansuer to us vpoune your offices and obedience : Quhairanent pir presentis falbe your Warrant. Subferyuit with our hand, At Lynlythqw, the xxvij of July, 1600.

(Sic subscribitur)

JAMES R.

PERSEWAR, Mr Thomas Hammiltoune of Drumcarn, aduocat to our souerane lord.

PRELOQUUTOIRIS for Mr Johnne Roife.

The Laird of Ballingoune, The Barroun of Kilraik,² Mr Johne Russell, Mr Williame Oliphant.

The samin day, the Aduocat tuik instrumentis, that Johnne Roife declarit that he wald abyde the tryell of Affyfe. Thaireftir, he declarit that he wald vse his Aduocatis counsal and aduise.

The Aduocat takis instrumentis, that Mr Johnne Russell declarit that this gentilman was misusit be tortour aganis the Law.

¹ It appears that the torture was used in this case, 'be my Lord Justice, att his Maiesteis directionne.' See Objections against *The Laird of Duffous*, p. 144. ² William Roife of Kilravock.

Allegeis that Mr Edward Bruce can nocht be Judge nor Affeffour, becaus the Chantour of Murray and Deane and subdeane, quha ar of kyn to the said Mr Edward Bruce, hes bene dilatouris and accuffaris and informeris in this caus ; and swa he can nocht be Judge nor Affeffour.—The Aduocat anfuweris, that this exceptioun can nocht be hard aganis my Lord of Kinlofs,¹ albeit it mycht be aganis the proceis thame selffis.

The Deane of Murray being demandit and inquyrit, gif he has gewin counfall aganis Johnne Roife, denyit the samin. Robert Dunbar, being fworne, denyit that he ewir gaif counfall in perfuit of Johnne Roife ; and declarit (he) affistit the Sheref of Murray in executioun of the Kingis Commissioun in taking of Johnne Roife, and wes his freind, and faulfit his lyffe.—The said Mr Johnne Russell takis instrumentis of the said Robert Dunbaris declaratioun.

Alledgeis Johnne Roife, that he can nocht be put to the knowlege of ane Affyis for Thift, Slauchter or Murthour, quhill² he be summond vpoun fyftene dayes wairning, and soner haif ane copie of the Dittay.—The aduocat anfuweris, that the alledgeance aucht to be repellit, in respect of the daylie practik of this hous, that persounes tane be vertew of his Maiesteis Commissioun and putt in waird, may be brocht fra the waird to the pannell,³ and putt to ane Affyis but⁴ ony citatioun or delay : And it is of veritie, that this defender wes tane, be vertew of his hienes Commissioun, in the moneth of Apryll lastbypast, and hes bene detenit in waird continewallie senfyne, and hes bene diuers tymes examinat vpoun the crymis contenit in his Dittay, as is knawin to my Lord Justice.—It is duplyt be the pannell, that the propositioun contenit in the said argument reffaues⁵ ane distinctioun, viz. parteis committit to waird be the Kingis Commissioun, for ane cryme done aganis his hienes, may, without ony citatioun, be presentit in judgement ; bot be the contrar *in delictis priuatis* betuix partie and partie, sic as thift, ressett of thift, slauchter and murthour, as the partie aduersar is purchesser of his Commissioun priuatlie, vpoun his awin information, he can nawyis wyn that vantage, that summerlie, without dittay or copie thair of delyuerit, or lauchfull citatioun, he sall be summarlie be put to ane Affyis, as is in this caise : Swa that the Kingis Commissiounis ar of diuers natouris ; sum gewin be his Maiestie without sute or information of partie, vtheris gewin be information. As to the nixt poynt, that he wes tane be Commissioun, thair is na Commissioun schawin ; *et rite omnia*, it is desyrit to be schawin, that the partie may object aganis it.

Thaireftir, the pannell refwmit the argument aboue writtin, for the Ressett of

¹ Mr Edward Bruce was Commendator of the Abbacy of Kinloss, and by courtesy, termed ‘ My Lord of Kinlofs.’ ² Until. ³ From imprisonment to the bar of the Court. ⁴ Without.

⁵ Receives, admits of.

David Roife and vtheris contenit in the Dittay, att the horne, for Fyre-raſing and thift. It is alledgeit, that as tuiching that pairt of the dittay concerning the ffyre-raſing, I ſould nocht be put to ane Affyis ; becaus ffyre-raſing is ather *delictum publicum* or *priuatum* ; gif it be *priuatum*, I ſould be ſummond vpoun fyftene dayes wairning ; gif it be *publicum*, I ſould be ſummond vpoun fourtie dayis wairning, quhilk is nocht done.—The Aduocat repetis his former anſuer, with the practikis of Arkinglas, tane in this toun, preſentit on pannell ; Robert Quhippo, for thift ; Rauff Wallace, for fals cuinzie ; Pacok, for the ſlauchter of vmq^{le} Hary Colvile, and diners vtheris. As to that pairt of the allegance, that Thift, Murthour and ſlauchter, and Reſſett of thift, quhilk ar capitall crymes, ar *priuata delicta*, he makis na anſuer ; becauſe it is *ignorantia juris* to call thame *priuata delicta*.—To the quhilk it is anſuerit be the pannell, that as to the particuler practikis nominat, thair is na thing produceit ; and aganis the ſamin practikis, thir particuler practikis ar alledgeit : The perſuit movit be the Laird of Cwninghameheid and the Bairnis of the Laird of Waterf-toun, aganis David Wylie ; in lykemaner, the perſuit movit be the freindis of vmq^{le} Coronall Preſtounne, aganis Maidland *alias* Broune ; in the quhilkis, it wes fund be the Juſtice, that nochtwithſtanding thay wer tane, thay aucht to haif had fyftene dayes wairning. As to the nixt argument, tuiching *delictis priuatis*, repetis his former anſuer.

It is alledgeit, that Johnne Roife of Ballivot can nocht be put to the knowledge of ane Affyis for the Slauchter and Murthour of Huchſounne Roife, becaus that in the moneth of December, 1588 yeiris, he wes acquit lauchfullie be Affyife of the ſaid cryme ; as the Teſtimoniall of the dait, the thryd of December, vnder the ſeillis and ſubſcriptionis of Lauchlan Angus Mcintosh in Termit, Johnne Cuthbert in New Caſtelhill, burges of Inuernes, &c., and ſubſcryuit be Johnne Dunbar, Johnne Wilſounne, Alexander Gaderar, notaris and clarkis.

ITEM, It is alledgeit, that the Slauchter of Robert Roife ſould nocht be put to ane Affyis, becaus it wes done in the defence of his lyffe, in his awin hous, quhair he wes aſſageit be xxiiij perſounes, for recovering of ane Decreit of Removing.

ITEM, As to the Reſſett of rebellis, he can nocht be put to ane Affyſe, becaus thair is na thing produceit to teſtifie thame to be at the horne. *Secundo*, gif it wer produceit, *non eſt crimen capitale*.

As for George Dunbaris thift of Clwnie, and for Reſſett of thift, hoching of oxin, and for the Fyre¹

As to the generall, for Commoun-thift and Reſſett of thift, it is ſa generall that it ſould nocht be put to ane Affyife.

Anſueris the Aduocat, to the Teſtimoniall of the clangeing produceit, that the

¹ A blank is left for filling up the plea of law.

famin can nocht stay proces, becaus the cryme being treflonabill, for the Slauchter of Huchfoun Roife vnder traift, the famin could nawyis be perfewit, bot ather at the instance of the kyn and freindis of the defunct for thair interes, or of the Aduocat for his interes ; and fwa this Testimoniall, nocht proceeding vpoun sic perfute, is null. As to the *secund*, anent the Slauchter of Robert Roife, that the famin fould be repellit, be reffoun the defender produceis nocht his decreitis and lettres, quhairby he wald allege the fact to be *jure factum* ; and the allegiance can nocht stay the mater fra ane Affyse. As to the *thryd*, anent the reffett of rebellis, contenit in the dittay, (it) aucht to be repellit, in respect of his hienes Commiffioun, gewin, for taking of the defender and his saidis compliceis, as denunceit rebellis, for the saidis crymes ; lyke as, Lauchlan Roife in Leanwradich, being rebell, and tane with the defender furth of his hous, wes fenfyne put to the knowledge of ane Affyfe, and wes convict and execut for the saidis crymes. The Aduocat lykewyis takis instrumentis, that painnell refusit to abyde ane Affyis for Commoun Thift and Refett of Thift ; quhilk ar relevant crymis, being subioynit to ane particuler Dittay. To the quhilk, it is anfuerit schortlie, *fyrst*, as tuiching the Testimoniall anent the Murthour of Huchfoun Rois, albeit it be sett doune in the Dittay to be treflonabill, he remittis the famin to the confideratioun of the Justice. The *secund* pairt of the argument alledgeit be the Aduocat, aucht to be repellit ; in respect of the Testimoniall produceit. As to the nixt, tuiching the Slauchter of Robert Roife, the excipient declaris, that he proponis that the famin may be coniunctlie discussit, be the Affyse, with the Dittay. As to the *thryd* poynt, considering the Refett of rebellis, allegis, na thing produccit to verifie the rebellis.

INTERLOCUTOR *of the Justice-Depute.*

THE JUSTICE Findis, that Johnne Roife of Ballivot falbe putt to the knowledge of ane Affyis, for the Burning of the Clwne, and for the steilling of George Dunbaris guidis, and hoching of the oxin. The Justice ffindis na proces aganis the said Johnne Roife for the Murthour of Huchfoun Roife, in respect of the Testimoniall produceit, testifeing him to be acquit. Findis, that Johnne Roife fould nocht be putt to ane Affyse, for the Slauchter of Robert Roife, quhill he be summond vpoun fyftene dayes wairning, except he wer att the horne for the said slauchter. The Justice Ordanis the Horning (to) be produceit, quhairin David McWillame and his compliceis wer at the horne, for the Burning of Clwne and Thift, or (*before*) he be put to ane Affyse for the Refett of thame. Ordanis Commoun Thift to be put to ane Affyse, in respect of the particuler Thift put to ane Affyse.

The Aduocatt takis instrumentis of the Interloquutour. Allegis the aduocat, that Johnne Roife wes chargeit of befoir vpoun fyftene dayes wairning, for the Slauchter of vmq^{le} Robert Roife, and produceit the lettres quhairby he wes chargeit ; and fwa he can nocht pretend ignorance that he wes wairnit vpoun fyftene dayes wairning.—It is alledgeit be Johnne Roife, that he wes nocht summond, att the leift lauchfullie summond ; becaus he is nocht summond att his duelling, and na duelling hous designit ; and *secundlie*, it is allegeit, that the charge makis

na mentioun that he knokit sax knokis.—The Aduocat alledgis, that he wes lauchfullie fummond, as the executioun beris ; and ane copie affixt bayth att his duelling and att the mercat croce.

The Aduocat produceit ane Hoirning aganis Dauid M^cWilliam Roife and Lauchlan Roife and vtheris, quhome Johne Roife reffett.—(Johne Roife) alledgis, that the Horning is null, becaus the perfonis quha ar fummond and alledgeit to be att the horne are nocht chargeit vpoune fourtie dayes.—It is anfuert be the Aduocat, that the Horning is lauchfull, becaus thay ar lauchfullie put to the horne for thift and hoching of oxin.

The said Mr Johnne Russell alledgeit for Johnne Roife, before Interloquoutour, that he can nocht be putt to ane Affyse for Refsett of rebellis ; becaus he is nocht fummond vpoune fyftene dayes wairning thairfore ; and wes nocht fummond for Refsett of rebellis ofbefoir. It is alledgeit forder, that the Horning quhairby the rebellis is putt to the horne, quhom for, and for quhais reffett he is to be put to ane Affyis, is null ; becaus it is nocht regiftrat conforme to the Act of Parliament, in prefens of ane Notar and foure witneffis.—It is anfuert be the Aduocat, that Johnne Roife can nocht be hard to obiect aganis the Horning, becaus the defender, be the famin Lettres, is chargeit to find caution, and for difobedience is denunceit and tane for the famin cryme, be vertew of ane Commiffiounerafit vpoun the saidis lettres.—The aduocat addis forder, that the hoirning is fufficient, becaus the perfoun att the horne is lauchfullie denunceit.

THE JUSTICE continewis Interloquoutour till the morne ; and wairnit the Affyse to compeir the morne att tuell houris.

Jul. 30.—THE Aduocat paffis fra that pairt of the dyttay, concerning the Refsett of Dauid M^cWilliam Roife, rebell, and vtheris his complices, *pro loco et tempore* : Quhairvpoun the defender askit instrumentis.

It is alledgeit for Johnne Roife of Ballivot, that tuiching of that point of the dittay, concerning Robert Roife, the defender aucht nawyis to be put (to) ane Affyse ; becaus he is nocht chargeit vpoun fyftene dayes wairning ; and infafar as it is alledgeit that thair wes ane anteriour citatioun vfit aganis him for the said cryme, the famin is nocht lauchfull ; feing it is euident, be the executiounis, that he is nather chargeit perfonallie, nor att his duelling place, conforme to the Act of Parliament ; and infafar as thar is mentioun maid of ane duelling place, trew it is, the famin is nocht defignit ; it being of veritie, that the tyme of the charge, and diuers monethis ofbefoir, and diuers monethis thaireftir, he duelt with his hous and famelic in his place of Slenes and duelling hous of Narne, att the quhilkis, and nather of thame, he is nocht chargeit : And gewand¹ that the executioun mycht respect the place of Ballivot, quhair he is alledgeit to be char-

¹ Giving, or granting, for the sake of argument.

geit, yit it can nocht sustene the executioun ; becaus he offeris him to preve, be witnes att the bar, that he duelt att his duelling place of Narne, the tyme of the charge, diueris monethis ofbefore, and diueris monethis senfyne : And nocht only is the duelling place nocht designit, bot thair is na mentioun of knoking, conforme to the Act of Parliament. It is forder alledgeit, that the partie enterit on pannel wes nocht tane for this cryme, viz. for the slauchter of Robert Roife, bot be vertew of ane Commissioun ; quhilk Commissioun procedit vpoun ane Hoirning ; quhilk Hoirning is null, and consequentlie the Commissioun fallis. It is forder allegeit be the said Johnne Roife, that na proces can be deduceit in this mater, without the Commissioun and Hoirning be produceit.

THE JUSTICE findis, that the said Robert (Johnne) Roife falbe put to the knowledge of ane Affyis for the Slauchter of Robert Roife, nochtwithstanding of the alledgences proponit be the said Johnne Roife.

The Aduocat takis instrumentis of the Interloquuntour.

OBJECTIONS *against the Affyse.*¹

It is allegeit aganis the *Laird of Duffous*, [William Sutherland,] that he can nocht pas vpoun the Affyis of Johnne Roife, becaus he is thrydis and ferdis² of kyn with Dumbar, theref of Murray ; quhilk theref of Murray hes behavit him selff as expres partie aganis the said Johnne in this persute ; fyrst, in causeing of him to be tane and apprehendit in the moneth of May lastbypast ; nixt, in purchessing of ane Commissioun for his apprehensioun, and executing of the samin, be him selff, his freindis and assisteris ; causing of him to be brought to Edinburghe, and thairefter transporting of him out of Edinburghe to Forres ; patt him in irnis thair ; brocht him bak in irnis ; purchest warrandis to that effect ; hes gewin informatioun to his Maiesteis Adnocat ; hes soliscit and procureit in this caus ; the persones of Inqueist gewin vp be him ; and fra the beginning, hes behavit him selff as partie ; procureit fra his Maiesteis Warrandis to tortour him ; and eftir the taking of him, hes brunt his bigingis and his houffis, within fyftene dayes eftir the taking of him ; and hes brunt his victuall, writtis and eidentis, being thairin ; haifing nather Commissioun, fyrst nor last, for doing of ony of the premissis ; and be him selff and his seruandis, freindis and assisteris, speciallie David Dumbar of Daldork, Williame Dumbar of Entirkyne, Patrik Dumbar, sheref-depute of Elgyn and fforres ; quha comperis personalie, and informis the Aduocat, quhilk he can nocht deny vpoun his conscience, hes persewit this excipient with all regour.

And forder, *Johnne Dumbar younger of Craichla*, being requeistit be the Sheref Murray to pas vpoun this Affyis, hes purchest Licence fra him to pafs hame : And as to the Commissioun, the samin wes grantit to Johnne Dumbar of Moynes, quhilk procedeit vpoun ane reafoun of Horniog quhilk is null ; and swa, fra the beginning all is null, and consequentlie the Sheref Murray mann be eftemit ane profest partie, but (*without*) ony Warrand.—The Aduocat anfuers, that the alledgance is nocht relevant, ffor quhatewir the Sheref Murray did in this mater, haifand the Warrand of his Maiesteis Commissioun and directione, as is notour to my Lord Justice, the executione thair of tending only to Justice, can import na declinatour aganis him selff, mekill les aganis his kynnismen, aganis quhome thair is na relevant alledgeance maid, ather of feid or partiall counfall.—To the quhilk it is anfuert, ffyrst, that thair is na Warrand produceit ; nixt, he had na Warrand ather to burne houffis, nor to tak and apprehend the partie ; bot speciallie, for burning of the hous eftir the partie wes ap-

¹ It has been thought of importance to preserve these curious objections at length. They strongly illustrate the remarkable state of the manners and customs of this District of Scotland at this period ; and besides, show the practice of the Court, in such matters, in a very striking manner.

² Within the third and fourth degrees of kin,

or relationship. This was a statutory disability, and very frequently pleaded.

prehendit; far les had he ony Warrant to gif vp ane Affyis, to gif vp dittay, to crave ane tortour, or to do ony of the particuler deidis contenit in the former alledgeance: And quhen ewir ony partie ingyues him selff willinglie, in that quhilk nawyis appertenis to his office, he man be esteemit as partie. And forder, the notorietye of this alledgeance is remittit to my Lord Justice, that the Sheref Murray, be him selff and his freindis, hes delt with his Majestie, the Officeris of Estait, the Lordis of Secreit Counfall, in preindiee of this partie, for away-taking of his lyffe. And last, quhatsumewir Commiffioun can be pretendit, ather in his name, or in the persoun of the Laird of Moynes, is alreddie fallin, and can be na Warrant ather to the ane partie or the vther; becaus it procedit vpoun ane Horning, quhilk is alreddie null. And swa, all that he hes done, is done but (*without*) ane Warrant, and consequentlie, man be esteemit to be done be him as ane partie. Attoure,¹ it is of veritie, that the Sheref Murray, without ony Warrant, efter he had brunt the hous of Ballivot, quhilk wes eftir the taking of the said Johnne Roife be the space of fyftene dayes, violentlie, att his awin hand, tuik Johnne Roife eldest sone, and apperand to Johnne Roife of Ballivot, constitute him presoner and captiue, quhill² thaireftir he wes compellit to find cautione for his releif.

It is forder alledgeit, that the said Laird of Duffous can nocht pass vpoun the said Johnne Rossis Affyse, becaus thair is deidlie feid³ standand vnrecounfalt, betuix the Sheref Murray, his kyn and freindis on the ane pairt, and the said Johnne Roife, his kyn and freindis on the vther pairt; nocht only for the causis foirsaid, bot alsua for the burning of the hous of Ballivot, and taking of his eldest sone; with the quhilk Sheref Murray, the Laird of Duffous is standand in consanguinitie, in maner foirsaid. It is forder alledgeit aganis the said Laird of Duffous, that he can nocht pass vpoun the said Johnne Rossis Affyse, becaus ane of the speciall pointis quhairfore the said Johnne Roife wes tortorit, wes for the burning of the coirnis of James Sutherland, brother to the Laird of Duffous; in respect quhairof, the said Laird of Duffous can nocht passe vpoun his Affyis, seing the tortoring of him for the caus foirsaid importis ane deidlie feid.—The Aduocat repetis his fyrst answer, eikand, That the inquestioun of the burning of James Sutherlandis coirnis att Johnne Roife, in his tortour be my Lord Justice, att his Maiesteis directionne, can import na feid aganis the Laird of Duffous.

Forder, it is alledgeit, that quhen the Sheref Murray sould haif put Johnne Roife to ane Affyis in Forres, the said Laird of Duffous came, as partie, with the Sheref to ingyue him selff⁴ vpoun his Affyse.

The Laird of Duffous, being sworne, declarit that he cam to Forrese, be command of the Kingis Maiesteis Letter, and as summond vpoun his Affyis, and nocht to persew the said Johnne Roife.

It is forder alledgeit be the said Johnne Roife, that the Laird of Duffous can nocht pass vpoun his Affyis, becaus thair is deidlie feid standand betuix the Sheref Murray, his kyn and freindis on the ane pairt, and Johnne Roife of Ballivot, his kyn and freindis on the vther pairt, for the crewall slauchter of vmq^{le} Allester Roife, quha wes slayne be the Sheref Murray his kyn and freindis, in the moneth of Maj; quhilk vmq^{le} Allester Roife and Johnne Roife ar brether bairnis: And repetis the kyn⁵ betuix the Laird of Duffous and the Sheref of Murray. In lyke maner, thair is deidlie feid standand vnrecounfalt, betuix the Laird of Duffous, his kyn and freindis on the ane pairt, and the said Johnne Roife, his kyn and freindis on the vther pairt, for the crewall slauchter committit be George Roife, quha is secund and thrydis of kyn with the said Johnne; quhilk George Roife flew Johnne Stewart, seruand to James Sutherland, brother to the Laird of Duffous.—The Aduocat answaris, that the slauchter of Allester Roife can import na feid, becaus he wes put to the tryell of ane Affyse, and ordourlie conuict for Thift, and execute to the deid. As to the secund, anent the slauchter of Johnne Stewart, it is nocht relevant, except Johnne Roife wald alledge, that the Laird of Duffous wes pairt-taker of that feid.

Answaris the pannell to the fyrst, that the alledgeance standis relevant, except my Lord Aduocat wald

¹ Moreover, besides.

² Until.

³ Deadly feud.

⁴ To offer himself voluntarily, as an 'ultrionous

witness,' without lawful citation to that effect.

⁵ Details the relationship.

instantlie verifie be writt, be quhat authoritie the said vmq^{le} Allester wes put to ane Affyse, and att quhat instance, and for quhat caus.—The Aduocat takis instrumentis that the Barroun of Kilraik declarit Allester Rois to haif bene heidit.—As to the nixt argument alledgeit be the aduocat, berand, that alledgance of the slauchter of Johne Stewart is nocht relevant, &c.; it is anfuert for Johne Roife, that the slauchter of Johne Stewart, quha wes seruittour to James Sutherland, brother to the Laird of Duffous, committit be George Rose, makis him and his haill freindis to be pairt-takeris of the deidlie feid.

Alledgis, that *Alexander Young burges of Elgyn*, can nocht pafs vpoun the Affyse of Johne Roife, becaus he is nocht ane landit man; *Secundlie*, he is seruand to the Laird of Duffous: Quhilk the Laird confest.—The Aduocat allegis nocht relevant, becaus ane burges may be a pair to ane landit man, nocht being ane barroune.

It is alledgeit, that *James Ruthirfurd burges of Elgyn*, can nocht pafs vpoun the said Johnis Affyse, becaus he is sister sone to the Laird of Tarbet, quha is vnder deidlie feid with Johne Roife for the slauchter of vmq^{le} Allester Roife.—The Aduocat alledgis, nocht relevant, in respect of his argument maid of befor aganis the Sheref Murray.—It is alledgeit forder, be pannell, aganis James Ruthirfurd, that the Laird of Tarbet wes att the burning of the hous of Ballivot eftir the apprehensioune, and att the taking of Johne Roifis eldest sone.—The Aduocat anfuert, that quhat wes done in the burning, and taking of John Roifis sone, wes done be vertue of the Commiffiounne.

It is alledgeit aganis *Robert Dumbar of Burgye*, that he can nocht pas vpoun the said Johnne Roifis Affyse, becaus he wes att the burning of Johne Roife of Ballivot (his house) and taking of his eldest sone. Forder, it is alledgeit that George Dumbar, quha had his hous brunt, mareit Robert Dumbaris sifter. [‘Repellis Robert Dumbar.’]

It is alledgeit, that *George Brodie burges of Edinburghe*, can nocht pafs vpoun Johne Roifis Affyis, becaus he is thryd and ferdis of kyn with the Sheref Murray, for his Gudame wes the Auld Sherefis sifter: Nixt, he wes att the taking of Allester Roife.—Aduocat anfuert, that the taking of Allester Rose wes lauchfullie take, be the Sheref Murray as ane judge compitent.

It is alledgeit aganis *Mr Johne Dowglas of Nera*, that he can nocht pas vpoun his Affyse, becaus he is thrydis of kyn with the Sheref Murray, for his Gudame wes the Auld Sherefis sifter: *Secundlie*, thair is deidlie feid standand betuix Mr Johne Dowglas and Johne Rose; becaus Mr George Innes, sifter and brether bairnis with Johne Roife, slew Mr Johne Dowglas moder: Forder, his brother Mr Alexander Dowglas, wes playne dilatour¹ of Johne Roife to the King.—The Aduocat anfuert to the freindschip² of the Sheref Murray as of before: As to the feid, referris to the said Mr Johne Dowglas ayth. [‘Stand by.’]

It is alledgeit aganis *George Lokart of Bar*, that he can nocht pafs vpoun Johne Rose Affyse, becaus he is nocht within the foure-half-about: *Secundlie*, the Sheref Murray and the Laird of Baris wyffe ar thryd and ferdis of kyn. [‘Bar, stand by.’]

It is alledgeit aganis *Thomas Gilzeam of Monachtie*, that he is nocht xxj yeiris, and that he has na land. [‘Repellit Thomas Gilzeame.’]

It is alledgeit aganis *Johne Hunter*, that he is na burges; quhilk wes confest.

The King's Will against James Maister of Ogilvie and Alexander Lord of Spynie.³

Aug. 14.—Comperit Alexander Maister of Elphinstoune, thesaurer to our souerane lord, and producit ane Act, containing his Maiesteis Will aganis the saidis personis, &c.; quhilk Act the said Justice-depute pronuncit and declarit

¹ Accuser; informer against; he who gave up the Dittay. ² Relationship. ³ See Jul. 15, 25, & 29.

judicialle to the faidis parteis, and ordenit the samyn to be regiftrate in the buikis of Adiorvall, and to haif the ftrenth of ane Act thairof, with executoriallis to pas thairvpone, &c. ; quhair of the tennour followis.

AT HALYRUDEHOUS, the fourtene day of Auguft, 1^m.VI^o. 5eiris. Forfamekill as *Alexander Lord of Spynie*, and certane his compliceis, on pe ane pairt, and *James Maifter of Ogilvie*, and certane his compliceis, on pe vther pairt, ar becum in his Maieftis Will, for pe Slauchteris and vtheris crymes committit be pame, at pe Conflict quhilk hapnit and fell out betuix pame, in pe moneth of laft : The Kingis Maieftie pairfoir hes declarit, and be pir prefentis declairis, his hienes Will, as followis : THAT is to fay, becaus the faid Maifter of Ogilvie and his complices, befydes the flauchter committit be pame, hes violat and contravenit his hienes lawis and Actis of Parliament, maid aganis the bering, wering and fchuting of hagbutis and piftoletis, that thairfoir he fall mak payment to his hienes, and to his Maieftis Thefaurer, in his hienes name, of pe fowme of flyve thowfand pundis ; quhair of pe fowme of ane thowfand markis betuix and pe first day of September nixtocum, and the remanent of pe faid fowme betuix and the tent day of November nixtocum : AND that the faid Lord of Spynie fall lyke-wayis mak payment to his Maieftie and his Thefaurer, in his hienes name, of pe fowme of flyve thowfand markis ; quhair of ane thowfand markis betuix and the faid first day of September, and pe remanent of pe faid fowme betuix and the faid tent day of November nixtocum : As alfo, that the faid Lord of Spynie, for him felff, and takand the burding on him for pe haill perfonis quha wer in cumpany with him at pe faid Conflict, on pe ane pairt ; and the faid Maifter of Ogilvie, for him felff, and takand pe burding on him for pe haill perfonis quha war in cumpany with him att pe faid Conflict, fall fubfcriyue ane Submiffioun of pe feid and contraverfie betuix pame to his Maieftie, and flik of his hienes Counfale as his Maieftie fall thynk meit : And forder, that the faid Maifter of Ogilvie fall within pe fpace of fex dayis enter his perfoun in Waird, within pe burcht of Hadingtoun, and pair remane, or in ony pairt beeft¹ pe faid burcht : And that pe faid Lord of Spynie fall, within the famyn fpace, enter his perfoun in Waird, within the burcht of Lynlythqw, and pair remane, or in ony pairt beeft² pe famyn burcht ; ay and quhill this Declaratioun of his Maieftis Will be fullie fatisfeit and obeyit be pame, in all poyntis : And that thairefter thay be fred be his Maieftie. And ordanis and commandis the Juftice, Juftice-Clark and pair depnttis to pronunce pis his hienes Declaratioun of his Maieftis Will judicialle, and to caufe regiftrate pe samyn in pe buikis of Adiorvall.

(Sic fubfcribitur)

JAMES REX.

For pronunceing and declaratioun quhair of, David Hairt, feruitour to the faid Alexander Maifter of Elphingftoune, askit actis and instrumentis.

The Earl of Gowrie's Conspiracy.

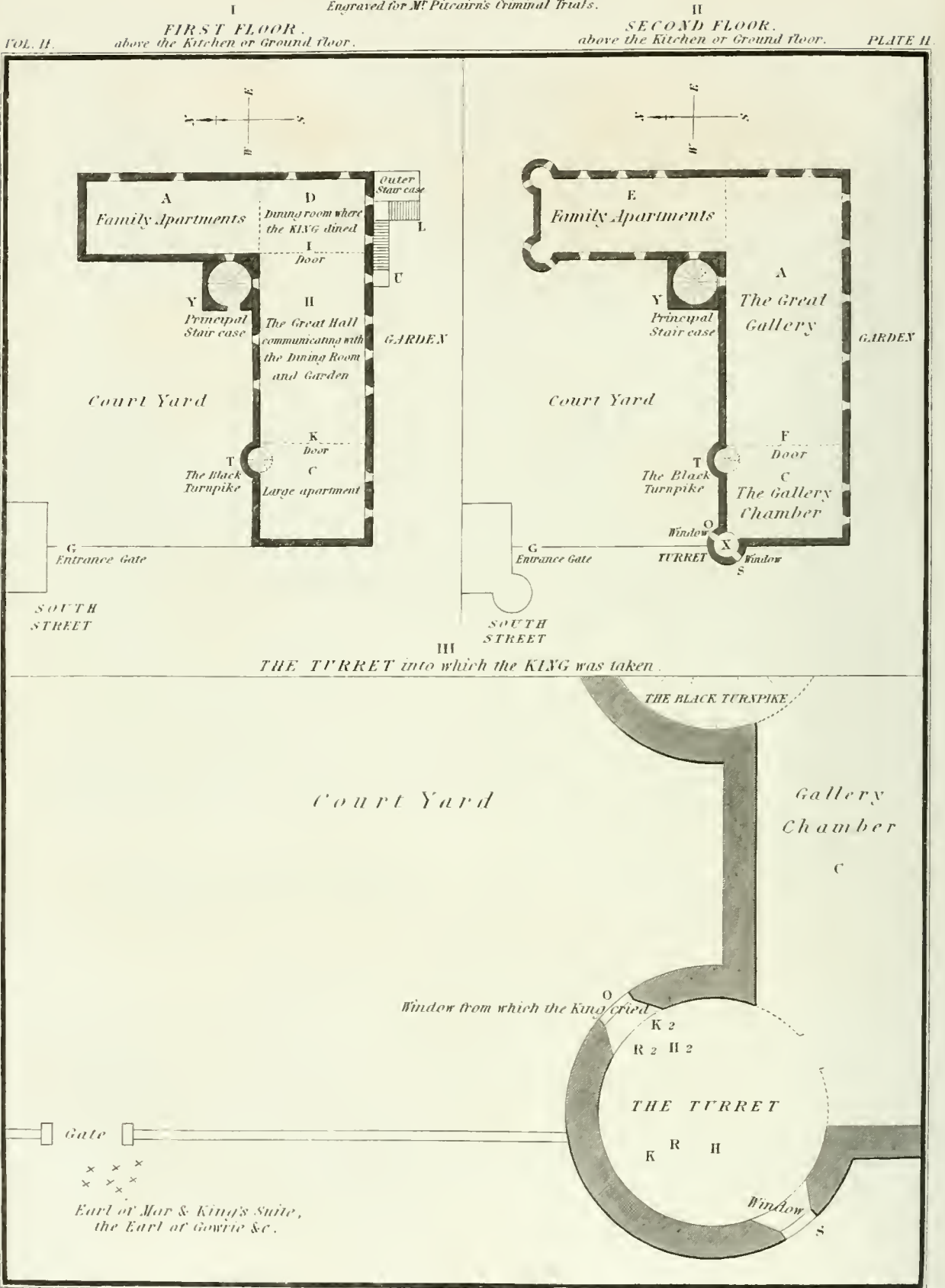
[THE GOWRIE CONSPIRACY has long been reckoned as one of the darkest pages of Scottish History ; and the subject has, perhaps, given rise to a greater profufion of controversial tracts, and to more difference in opinion among hiftorians, than almost any other passage in our Annals. Having been so fortunate as to recover the Original Autograph Letters of Robert Logan of Restalrig amongst the ' Warrants' of the Parliament, and of the Privy Council, of Scotland ; and having, besides, after considerable research, discovered many other illustrative

¹ To the eastward of.

² To the westward of.

Gowrie's Conspiracy.

Engraved for *Mt Pittcairn's Criminal Trials.*



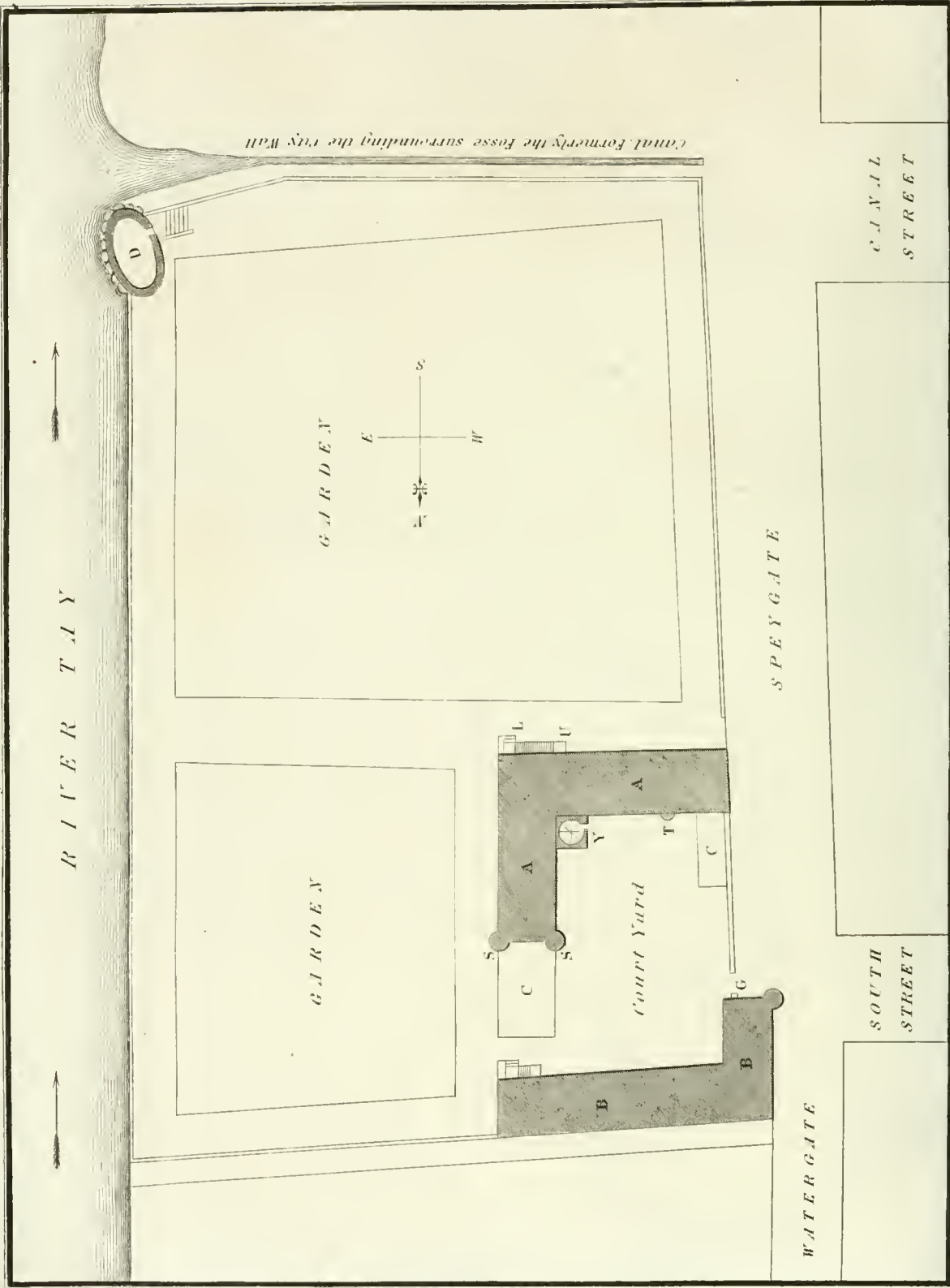
K, R, H, Position of the King, the Master of Ruthven and Andrew Henderson, on their entrance into the Turret & at the commencement of the Struggle.
K 2, R 2, H 2. Their relative Situations, at the time the King cried for help.

Gowrie's Conspiracy.

PLAN OF GOWRY HOUSE & ADJOINING GROUND, A.D. 1806.

FOL. II.

PLATE I.



A.A. The ancient portion of Gowrie House, consisting of three towers and attics B.B. The more modern portion of Gowrie House, C.C. Temporary Sheds lately used for Artillery, D. The Monks Tower, E. The Entrance Gate, S.S. Two Towers, T. The Black Turnpike, U.U. Flight of Steps leading to the Garden.

documents, tending to throw additional light upon this obscure and much-contested point, the Editor had intended prefacing the present Article, by a short Sketch or Narrative of the whole facts and circumstances upon which the reality and truth of this extraordinary drama must now be considered as hingeing. After mature deliberation, however, this purpose has been abandoned, chiefly because the introduction of such disquisitions is, in some measure, unsuitable to the plan and intention of this Collection, and, if indulged in, would encroach on space which is so much better occupied by extracts from the original and graphic pages of the Books of Adjournal. It seems to be more consistent with the nature of this work, to collect and place in juxtaposition the entire authentic information which can now be procured from original and undoubted sources. With this view, therefore, considerable labour has been expended in searching the Public Records, and the unexhausted and truly valuable stores of the Faculty of Advocates, whose MS. Collections have been as carefully and extensively examined, as the other laborious avocations of the Editor would permit.

This arrangement is the less to be regretted, as so many excellent, though certainly most conflicting Accounts, have been written, both for and against the reality of this Conspiracy. Mr Parker Lawson, the ingenious author of the *Life and Times of Archbishop Laud*, has recently treated of this subject, in a concise and able manner, in his ‘*History of Remarkable Conspiracies*.’ The Editor, having heard of the work when it was in the course of going through the press, gave that gentleman free access to his entire Collections, partly with the view of saving the necessity of such a Disquisition as that which he had himself contemplated; and in order that the truth of this Conspiracy might, by Mr Lawson, be thoroughly sifted and placed upon an unquestionable foundation. The reality of the Gowrie Conspiracy has now, as is conceived, been satisfactorily made out by Mr Lawson, who has embraced views similar to those entertained by the Editor; and, after a patient examination of the whole of the evidence and materials, which have now been collected, has come to the same conclusions.

The Editor has only farther to remark, that the result of his enquiries and examinations of Original Documents are now offered to the Public; and that these Papers, a great portion of which are here for the first time published, are arranged, either in the order of their dates, or according to their apparent importance, and their bearing on the question. If they have swelled out to an undue size, the Editor hopes their novelty, and historical interest, will make ample amends. They have, at a considerable additional expense to the Editor, been condensed, as much as regard for the uniform typography and appearance of the book would permit.]

[CURIA JUSTICIARE, *f. d. n. Regis, tenta in Pretorio de PERTH, xxij August 1600, per Magistrum Wilelmum Haert, Justicium Deputatum.*]

Aug. 22.—MR THOMAS CRANSTOUNE and George Craigingelt, seruitouris to vmq^{le} Johnne Erll of Gowrie ; and Johnne M^cDuff alias Barroune, in Strabrand.

Dilatit of airt and pairt of the Treasonable crymes vnderwrittin ; committit aganis HIS MAIESTIE, the fyft of August instant.

The quhilk day, comperit Mr Thomas Hamiltounne, aduocat to our souerane lord, and produceit his hienes Warrant, directit to the Justice ; quhair of the tennour followis :

REN,

JUSTICE, Justice-Clerk and your deputis, We greit you weill. It is oure will, and We command you to put Mr Thomas Cranstounne, Johnne Barroune and George Craigingelt, to the knowledge of ane Affyis, for the lait traitterous Conspiracie devysit and intendit to be execute aganis ws, at Perth : And thay being convict, that ye cause dome to be pronunceit aganis pame, to hang pame to deid : And that ye sie the same dome put to executioun, without delay : Quhairanent thir presentis falbe your Warrant. Subscryuit with our hand, At Falkland, the xxj day of August, 1600.

(Sic subscribitur)

JAMES REX.

ASSISA.

James Bower, notar in Perth,	Robert Broune, Kepar of his	George Murray, burges of Perth,
Andro Rae, baillie thair,	Maieftis wyne fellar,	Patrik Seill, thair,
Johnne Ogilvie, faidler thair,	James Liddell, Potifar to his	Johnne Pullour, merchand thair,
David Rynd, flescheour thair,	Maieftie,	Andro Gellatlie, merchand thair,
Thomas Elgyn, thair,	James Bog, aid to the Maister	Williame Jak, baxter thair,
James Balnavis, flescheour thair,	Portar,	Patrik Drummond, skynner thair.

It wes alledgeit aganis *Robert Broune*, that he can nocht be putt on his Affyse, becaus he bure sword that day, and beris quarrell att him (Mr Thomas Cranstounne ?) The said Mr Thomas askit instrumentis, that Robert Broun declarit he bure quarrell aganis Mr Thomas sen that day, for the persuit of his Maieftie.—The Aduocat askit instrumentis, that the said Robert declarit that it wes for persuit of his Maieftie the King, quhilk can be na quarrell ; and thairfore he can nocht be put off the Affyse.

The Justice admittis Robert Broune vpoun the saidis personis Affyis.

It is allegeit be Mr Thomas Cranstounne, that *James Liddell* can nocht be vpoun his Affyse ; becaus he misreportit of him at Falkland.

The advocate produced the several Dittays, which follow.

DITTAY against Mr Thomas Cranstounne.

MR THOMAS CRANSTOUNE, Ye ar indytit and accusit of airt and pairt of the detestabill, horribill and tressonabill Conspiracie attemptat aganis our souerane lordis maist nobill personne, be vmq^{le} Johnne Erle of Gowrie and vmq^{le} Mr Alexander Ruthven, his brother : Forfamekill, as the saidis vmq^{le} Erle and Mr Alex-

ander his brother, haifing maift develiffie concludit amangis thame felffis tref-
fonable to Murthour his Maieftie, thair natiue Prince : And for that purpois,
the Erle haifing directit the faid vmq^{le} Mr Alexander, vpoune the fyft day of
Auguft instant, to his Maieftie, the faid vmq^{le} Mr Alexander, vfung incredibill
craft and diffimulatione, haifing efelie perfwadit with his fair wordis, vtterit in
maift humbill and loving maner, his Maieftie to ryde with him to St Johnftoune ;
and the faid vmq^{le} Johne Erle of Gowrie, haifing with the lyke deffait of mynde
and hwmilitie of behaviour, reffautit his Maieftie, and drawin him to his ludge-
ing ; immediatlie efter denner, the faid vmq^{le} Mr Alexander requeftit his Ma-
ieftie to gang with him to the Gallerie chalmer of the faid lugeing, quhilk his
Maieftie reddelie did, fufpecting na ewill, bot mefuring the intentionis of that
diffaitfull traittour with the finceritie of his hienes awin hairt : In the meyn-
tyme, the faid vmq^{le} Mr Alexander, haifing lokkit behind him diuerfe duris, led
his Maieftie to the Cabinet of the faid Gallerie chalmer, quhair he had preparit
Andro Henderfoune, familiar feruand to the faid vmq^{le} Erle with ane fecret,¹
plait-flevis, fword and quhingear, be expres command of the faid Erle, to await
vpoune the faid Mr Alexanderis cuming, and do quhatfoever he commandit him ;
and thair, finding tyme and all vther occasionis to concur for performing of his
maift abhominabill treffoune, haifing coverit his heid, and drawin Andro Hen-
derfounis quhingear, he maift horriblie and crewallie presentit the famyn to his
Maiefteis hairt, vowing instantlie to flay him for the death of his vmq^{le} fader,
convict and execute to the death, be ordour of Juftice, for Heich Treffoune :
And fynding him felff funquhat diffapoyntit, be the faid Androis withdrawing
of his quhingear furth of his hand ; and, as it pleafit God, funquhat dafchit be
his Maiefteis graif and constant fpeicheis and reffonis, he treflonable caufit his
Maieftie sweir that he fuld keip fylence, and remane prifoner in that chalmer,
quhill he returnit fra his brother, with quhome he wald confult. And fwa, haif-
ing treflonable imprefonit his Maieftie, and lokkit the dur vpoun him, and in-
continent returning within the chalmer, he treflonable fwoir that his Maieftie
behovit to die ; and preiffing to haif bund his Maiefteis handis with ane gar-
tane,² quhilk he had lowfe in his handis for the purpois ; and fynding his Ma-
ieftie to refift, he putting his rycht hand to his fword to haif drawin it, and with
the vther maift crewallie and vmmercyfullie haifing grippit his Maieftie mouth
and berd, of purpois baith to hald him and hinder him to fpeik ; neuirtheles, his
Maieftie, extraordinarlie ftrenthennit be the mercie of God, ftayit him to draw
his fword, and cuming to the wyndok foirnent the way to the Spay-poir, cryit
for ‘ Help’ to my Lord of Mar, and vtheris his faythfull fubiectis ; quhair the
faid Erle of Mar, with diuerfe vtheris his Maiefteis deutifull fubiectis and fer-

¹ A coat of chain-mail of proof, *secretly* worn under the usual dress.

² Garter,

wandis, being of accident drawin thair, be the maist tressonabill devyise of the said vinq^{le} Erle of Gowrie, be ane bruit¹ gevin out be yow the said Mr Thomas Cranstoune, that 'his Maiestie wes riddin away,' thairbye to induce his hienes ferwandis to ryn to thair horsis, and thynking to follow the King, to poist of (*off*) the toune, and to leif him destitute of all help : That deveilleisich inventioun, proiectit for the mair secret and assurit executioun of his Maiesteis slauchter, turneing, be the providence of God, to the beginning of his Maiesteis saistie and releif ; all faythfull subiectis, seing his Maiesteis exceding danger, haistit for his releif ; bot preiffing all to enter the way, thay saw his Maiestie drawin to the said chalmer be the said vinq^{le} Mr Alexander, and being secludit be sa mony durris, lokkit, in that passage, be the said vinq^{le} Mr Alexander, of set purpos : At last, Sir Johne Ramfay, led doubtleslie be the spreit of God for his Maiesteis saistie, ran vp the bak turnepyke,² being ane vnaccustomit passage, and enterit be ane dur of the said chalmer, quhilk ansuerit to the said turnepyke ; quhilk dur wes opnit of accident, be the said Andro Henderfoune ; quha, being confoundit with horreur of sa heich tressoune, quhen he saw it at the poynt of the executioun, baith hairt and hand being tane fra him, be the power of God, protectour of his Maiesteis innocencie ; the said Sir Johne Ramfay entering in the chalmer, and seing the horribill violence vfit be the said vinq^{le} Mr Alexander to bereve his Maiestie, destitute of armour or wappynnis, of his lyffe, ran to his help ; and haifing gevin to the said Mr Alexander sum straikis with his quhinge-gear,³ expellit him furth of the foirsaid chalmer. During the quhilk space, the said vinq^{le} Erle, persaifing his tressoune discoverit, and being vpoune the Hie street of the said burcht of Perth, accompaneit with thre or four seoir of personis or thairbye, he come foirnent the duelling-hous of Archebald Makbreg, haifing na provocatione, nor knawin nor sene cause to vse ony wappynnis, drew his twa swordis, and thairbye gaif example to his haill cumpany to do the lyke, and altogidder ruschit langis⁴ that pairt of the gait,⁵ with drawin swordis to the zet⁶ of his lugeing ; his Maiestie being thairin for the tyme, in maner foirsaid : And thair, ye the said Mr Thomas, enterand with your drawin siverd befor the said Erle, he commandit yow to enter vp the Blak-turnepyke ; lyke as ye and he tressonablie ran vp the said turnepyke, accompaneit with Alexander and Harie Ruthvennis, Hew Moncreif, Patrik Eviot and diuerse vtheris your complices, and cuning to the said Gallerie chalmer dur, within the quhilk his Maiesteis maist nobill persoun was for the tyme ; and thair, fynding the said Sir Johne Ramfay, Sir Thomas Erskyne and Doctor Herreis at the dur for his Maiesteis defence,

¹ Fr. *bruit*, a report or rumour.

The term is still used in Scotland.

alongst.

⁵ Street or road.

² For 'blak turnepyke,' a winding staircase, commonly in a

turret.

³ A sort of cutlass or short sword, a *hanger*.

⁴ Along,

⁶ Gate.

ye tressonablie invadit and persewit thame for thair slauchteris, repulsat thame perforce, and enterit within the samyn chalmer, hurt and woundit thame, and everie ane of thame ; and left nocht of the persute of the said horribill Tressoun, quhill the said vmq^{le} Erle, being slane within the said chalmer, and ye haifing reffawit twa deidlie woundis, disparit of performing your interpryis, fled doune the cloise, quhair ye tressonablie commandit to gaird and keip the bak yet ; and assistit ane nowmer of seditious rebellis, quha had inclufit and beseageit his Maiestie within the said ludgeing. Quhairbye, ye haif committit maist Heich, manifest and abhominabill Tressoun ; and ar airt and pairt thairof.

DITTAY against George Craiggyngelt.

GEORGE CRAIGGYNGELT, Ye ar indytit and accusit of airt and pairt of the maist crewall, abhominabill and tressonabill Conspiracie attemptit aganis our Souerane Lord, be vmq^{le} Johne Erle of Gowrie your maister, and vmq^{le} Mr Alexander Ruthven his broder, vpoun the fyft day of August instant. Forsamekill as, Johne sumtyme Erle of Gowrie, and vmq^{le} Mr Alexander Ruthven his broder, haifing maist crewalie, vnnaturallie and tressonablie Conspyrit his Maiesteis Murthour ; and, for performance thairof, vpoun the fyft day of August instant, the said vmq^{le} Mr Alexander, be directione of the said Erle, haifing maist diffaitfullie drawin his Maiestie to Perth : And, efter his demer, haifing perswadit his hienes to gang quytlie his allane to the Gallerie chalmer, and thair, tressonablie, with the drawin quhingear of Andro Henderfoun, quhome he had laid than in wait, armit with secreit, plait-slevis, sword and quhingear, to assist him and do quhat he directit, according to the command gevin to him be the said vmq^{le} Erle his maister, haifing preissit to haif slane his Maiestie ; and being sumquhat stayit be sik graif perswasionis, as God at that tyme furneissit his Maiestie to stay the rage of that tressonabill angre, he take his Maiestie sworne that he suld keip sylence, and remane presoner in the foirsaid chalmer, till he returnit : And than lokkand the dur, and incontinent returnand, he declarit his Maiestie behovit presentlie to die ; and preissing to bynd his handis, and incensit be his resistance, haifing layit his rycht hand to draw his sword, and being stayit be his Maiestie with his vther hand, haifing vnnaturallie and crewallie tane his Maiestie be the berd and the mouth, to hald him and stay him fra crying ; nochtwithstanding quhairof, his Maiestie, be the assistance of God, wan to the windok that luikis to the Spay-point, and thair cryit for ‘ Help ! ’ During the quhilk space, the said vmq^{le} Erle, haifing raisit ane fals brute, that ‘ the King wes away ; ’ thairbye to haif inducit all his hienes serwandis to poist to overtak him, vpoun the way to Falkland : Quhill thay wer making haist to get thair horsis, and abyding vpoun thame, betuix the said lugeing and the point, it pleisit God, that my Lord Duke, the Erle of Mar, and certane vtheris his Maiesteis

weill affectionat subiectis and serwandis, saw and hard his Maiesteis cry ; quha rynnand to his releve, and fynding na man to enter, being excludit be sa mony duris, lokkit of set purpois be the said Mr Alexander at his vpgöing : At last, it pleasit God to direct Sir Johne Ramsay vp the Bak-turnpyke, quhair, fynding the bak dur of the said chalmer opnit be Andro Henderfoune, quha, stupefeit with the vnspcakabill horror of the sycht of the said Tressoune, preparit him selff to flie thairfra ; the said Sir Johne enterit, and in his faythfull and dewtiefull hairt of his Maiestie, geveing sum straikis with his quhingear to the said vmq^{le} Mr Alexander, pat him perforce furth of the said chalmer : And than, the said vmq^{le} Johne Erle of Gowrie, seing his Tressoune discouerit, and in danger to be dissapoyntit, casting of the mask of his depest dissimulatione ; being vpoune the Hie streit of Perth, accompaneit with thre or four scoir of his complices, without ony occasioun gevin to him, or sycht of ony contrair partie,¹ drew his twa swordis, and thairbye causit the rest draw thair swardis ; and than tressonablie come, in hostile maner, to the yet of the said duelling-houise, quhair his Maiestie was for the tyme, and tressonablie entering with drawin swordis, Ye the said George Craigginglelt, than meting him with ane drawin twa-handit sword in your hand, the said Erle commandit to keip the bak yet, quhilk ye tressonablie did ; and ye, with Mr Thomas Cranstonne, Alexander and Harie Ruthvennis, Hew Moncreif, Patrik Eviot and vtheris his complices, rinnand vp the Blak-turnpek, to the chalmer quhair he knew his Maiestie to be for the tyme, tressonablie and perforce enterit thairin, straik fra the defence thairof Sir Thomas Erskyne, Sir Johne Ramsay and Doctour Herreis, his Maiesteis serwandis, and persewit thame for thair slauchteris, and crewallie woundit thame, and insistit in the crewall and vnumercifull perfruit of this abhominabill Tressoune to the verrie death : During the quhilk tyme, Ye the said George Craigginglelt, obeying the tressonabill command of your said vmq^{le} maister, tressonablie enclofit the said bak yet ; and assistit be ten or twelf rascallis, your complices, tressonablie besegit his Maiestie, your soueranis maist nobill persoune ; and remanit with your twa-handit sword drawin, in your hand, attour² the space of twa houris, at the said bak yet, and in the cloise of the said lugeing, and sufferit na man to haif entrie or passage at the said yet : And lykewyis, tressonablie minasfit his Maiesteis domestik seruittouris, being inclust and besegit with his Maiestie within the said lugeing, for thair slauchteris, boisting³ to hang thame, and avowing that thay suld all die ; ye herand and seand Harie and Alexander Ruthvennis, and vtheris your complices, call for poulder to blaw vp the said lugeing, and causing bring ane jeist⁴ to ryn at the yet thairof, and ding it vp,

¹ Adversary. ² Above, more than. ³ Threatening. ⁴ A jcist or beam, to be used as a battering-ram to force open the gate.

that thairbye thay mycht haif enterit perforce, and crewallie Murderit his Maieftie, and his faythfull ferwandis, being with his Maieftie thairin. Quhairbye ye haif committit maist Heich and manifest Trefloune; and ar airt and pairt thairof.

DITTAY against Johne Makduf alias Barroune.

JOHNE MAKDUF alias BARROUNE, Ye ar indytit and accusit for airt and pairt of the treflonabill Conspiracie attemptit be vinq^{le} Johne Erle of Gowrie, and vinq^{le} Mr Alexander Ruthven his broder, aganis the Kingis Maieftie, vpoune the fyft day of August instant. Forsamekill as the saidis vinq^{le} Johne Erle of Gowrie, and vinq^{le} Mr Alexander Ruthvene, having secreitlie Conspyrit his Maiefteis Murthour; and for affectuating thairof, the said vinq^{le} Erle having directit his brother Mr Alexander the samin day to Falkland, to perfwaid his Maieftie to cum to S^t Johnestoune, to the said vinq^{le} Erles lugeing; quhair, efter he had dynit, the said Mr Alexander, having drawin him to the said Gallerie chalmer, and lokkit the haill durris efter him, and having Andro Henderfoune lyand in wait, be directione of the said vinq^{le} Erle, armit with his secreit, plait-slevis, sword and quhingear, and commandit be him to do quhatsumever the said vinq^{le} Mr Alexander his broder fuld bid him; the said vinq^{le} Mr Alexander drew the said Androis quhingear, and myntit¹ to have flane his Maieftie thairwith; and being pairtlye stayit be the taking of the quhingear fra him, and pairtlye be the maieftie of his nature, prait² and reasonis vfit be him, to stay his treflonabill furie; haifing promesit to advyse with his brother, takand in the meyntyme his Maiefteis ayth, that he fuld remane presoner, and keip silence; he passit furth, lokkit to the dur, and schortlie thairefter returning, swear abhominablie, that he behovit instantlie to die: And preissand to haif bund his Maiesties handis, to the effect he mycht the mair eifelie have murtherit him, his Maieftie, be the assistance of God, maid sik resistance as he wan to the windo of the said chalmer; and seing certane his hienes faythfull subiectis, cryit for ‘Help’ aganis the murthorer, preissand to bereave him of his lyffe. And the said vinq^{le} Erle, cairfull to withdraw all meanis of help or succours frome his Maieftie, having causit raise ane fals rumour of his Maieftie passing away, quhilk him self and Mr Thomas Cranstoune his ferwand affermit to be trew, and that his Maieftie was past Mid-Inche;³ be occasion of the quhilk rumour, my Lord Duke, the Erle of Mar, and vtheris his Maiefteis ferwandis, being run to seik thair horsis, to follow his Maieftie, quhome thay supponit to be away; seing and hering his Maiefteis present danger, ran to his releve, bot being stayit be the duris, lokkit of fet purpois be the said vinq^{le} Mr Alexander, could nocht haif accesse; quhill at last, it pleasit God to direct Johne Ramfay to rin vp the Blak-trumpyke;⁴ and

¹ Made an attempt, essayed.

² Talk, persuasion. It is not unlikely that this is a mistake of the transcriber, for ‘grace.’

³ Past the middle of the South Inch of Perth.

⁴ Turnpike. The

thair, fynding the dur of the said chalmer opuit, be the said Andro Henderfoune, preissand to flie furth of the same, abhorrand the fylthines and crewaltie of the said Treaſoune, the said Johne Ramſay enterit, and diſchargeand his native and bund dewtie to his Prince, gaif to the said Mr Alexander ſum woundis, and expellit him furth of the said chahner; quha, falling in the fute of the said trum-pyke; albeit ye the said Johne Barroune, hard, ſaw and knew his Maieſteis perrell, nawyis movit thairwith, nor preissand onywyis, according to your dewtie, to mak him ony releif; bot be the contrair, preissand to aſſiſt the said treſſonabill attemptat aganis his Maieſtie, ran furth to the Hie ſtreit, quhair the said vinq^{le} Erle was for the tyme, and declarit to him that his said vinq^{le} broder wes ſlane; and thairbye incenſit the said Erle to draw his ſwordis, and furiouſlie ran with his complices to his ludgeing, quhair his Maieſtie was for the tyme; and treſſonablie enterit thairin, and paſſit vp to the dur of the chalmer, quhair his Maieſtie was for the tyme, and invadit his Maieſteis ſerwandis, being thair for his Maieſteis defence, and perſewing thame for thair ſlauchteris, dang¹ thame in dinerſe pairtis of thair bodeis; and inſiſtit in the treſſonabill executioun of his Conſpiracie foirſaid, to the verrie death; quhome ye treſſonablie movit, be your aduerteiſment, to the executioun of the said treſſonabill Murthour, with his awin handis: Lyke as, ye followit him in the said treſſonabill interpryife, and enterit within the said lugeing; and in the cloiſe, at the bak zet, haveing incourageit all men to aſſiſt the said vinq^{le} Erle, did quhat in yow lay to ſteir vp all men to fortifie the said vinq^{le} Erle in his said Conſpiracie: And thairbye, ye was airt and pairt of the said maift horribill Treafon.

THE said Aduocat produceit, for verificatioun of the Dittays; in the fyrſt, the Depoſitiounis of Andro Henderfoune, to prove the devyſe and actuall executioun of the Treafoun lybellit; and vſit the ſamin aganis the haill pannell. And, for verificatioun of Mr Thomas Crauſtounis particuler Dittay, produceis the said Mr Thomas thrie Depoſitiounis, ſubſcryuit with his hand, and cognofeit be himſelf: Togidder with George Craigingeltis Depoſitioun, ſubſcryuit with his hand. And, in lyke maner, produceit the said Georgeis Depoſitioun aganis him ſelf: And the Depoſitioun of Johne M'Duff alias Barroun, for verificatioun of his Dittay. Togidder with the Depoſitioun of Olipher gounge, James Drummond and David Rynd, auent the bringing of ane jeift to force the zett, his Maieſtie being thairin: And alſo, the said Davidis Depoſitioun, that he hard Alexander Ruthven cry for powder.

Repetis the xxv Act of King James the ſecund, expreſſing that the Invaſioun of the Prince, and aſſalzeing of ony caſtell, place or hous, quhair his Maieſtie is, is Treafoune: And lykewyis, the hundreth threſcoir and fyftene Act of the

proper name Turnbull is ſtill vulgarly pronounced Trumbull, and was at this period commonly ſo written; the word turnpike ſeems to have been ſimilarly corrupted. ² Violently ſtruck and thruſt at.

Kingis xiiij Parliament ; bering, that the frykeing, hurting or flaying of ony person within the Kingis Inner-Chalmer, Cabinet or Chalmer of peace, the Kingis Maiestie for the tyme being within his Palice, to be Treasoun. Repetis the notorietie of the fact, and the knowlege of the Assyis thame selfis ; and gif thay clange,¹ Proteftis (for) Wilfull and manifest Errour.

VERDICT. Quhilkis personis (of Assyis) being chosin, sworne and admittit ; and the saidis Mr Thomas Cranston, George Craiggingelt and Johne M'Duff alias Barroune, being accusit, in their prefens, of the particuler Dittayis *respective* foirsaidis, and crymes contenit thairin ; quhilkis wer verifeit, be thair awin Depositionis, diuerse Actis of Parliament, and vtheris Depositionis produceit be the said Aduocat ; the saidis personis of Assyis, immediatlie thairefter, past alto-gidder furth of Court, to the Over-hous of the said Tolbuith ; quhair thay, efter chesing of the said Andro Rae chancellor, ressonit vpoun the pointis of the Dittayis *respective* foirsaidis, and votit thairvpoun ; and eftir longe ressoning and consultatioun vpoun the samyn, being throughlie avysit thairwith, re-enterit agane in Court, in prefens of the said Justice-depute ; quhair thay, be the mouth of the said Andro Rae chancellor, ffand, pronunceit and declarit the saidis Mr Thomas Cranstoun, George Craiggingelt and Johne Makduff alias Barroune, to be Fylit, Culpabill and Convict of airt and pairt of the maist crewall, abhominabill and tressonabill Conspiracie, attemptit be vni^q^{le} Johne Erle of Gowrie, and vni^q^{le} Mr Alexander Ruthven his brother, aganis the Kingis Maiestie, committit vpoun the fyft day of August instant : As at mair lenth is contenit in the Dittayis *respective* abouewrittin, laid to thair charge.

SENTENCE. For the quhilk cause, the said Justice-depute, be the mouth of William Lyell,² dempstar of the said Court, Decernit, Ordanit and Adjudget the said Mr Thomas Cranstoun, George Craiggingelt and Johne Makduff alias Barroune, to be tane to ane Gibbet, belyde the mercat-croce of Perth, and thair to be HANGIT quhill thay be deid ; and all thair Landis, heritageis, takis, sted-ingis, rowmes, possessionis, guidis and geir, to be fforfalt and escheit to our souerane lordis vse, as Convict of the saidis crymes.³

¹ *Cleanse*, i. e. find the pannels Not Guilty, or Acquit them. ² ' Johne Fendraucht' is deleted, and ' W^m Lyell' interlined, and also the name is written on the margin. ³ ' Upon Saturday, the 23d of August, Mr Thomas Cranston, George Craiggingelt and John Baron, officer of Strabran, attenders upon the Earl of Gowry, were hanged in St Johnston, for drawing their swords in the time of the tumult ; yet confessed they nothing which might smell of knowlege of any Conspiracy.—Mr Thomas Cranston, brother to Sir John Cranston of that Ilk, exhorted the people to forbear imprecations against themselves ; for he had now found by experience, that they wanted not their own effect. For that he himself had vsed three kinds of imprecations, viz. " God nor a sword go through me !"—" I shall be taken for a Traitor !"—" God nor I be hanged !"—" I have been taken," said he, " for a Traitor ; but I thank God, I am nocht one. I was stabbed through with a sword at this last tumult ; and now, I am to be hanged !" He conceived a fervent prayer, at which time, in the midst of a cloudy darkness, glanced a sudden brightness, to the astonishment of the beholders.'—From *Calderswood's MS. Church History*, in the University of Glasgow.—*Scott's MSS.* Adv. Lib.

DEPOSITION OF MR THOMAS CRANSTOUN.¹

AT THE BURCH OF PERTH, and within the duelling hous of Johne Pitcarne thair, the sext day of August, the yeir of God I^m and sex hundreth yeiris.

Quhillk day, in prefens off Mr Patrik Galloway Minister to his Maiestie, Oliuer Young, Andro Ray bail⁵ eis, James Adamfone dene of gild, Williame (Jak) dekin of the baxteris, and Henrie Elder commoune clerk, wreter heirow, burgeses of the said burch of Perth,

MR THOMAS CRANSTOUNE, swintyme seruitour to vmq¹⁰ Johne Erle off Gowrie, being appellit on his conscience, as he vald answere to God, seing he was vpoune his deid bed, as appeirit to thame, deidlie vondit with twa straikis, Deponit as followis. THAT vpoune the fyft day of August instant, he being in the ludgiug, hering ane vncertane rumour and brute² of the Kingis furth-going to the South Inche, came donne the bakftair to the gardin 3eard, quhair my lord his maister wes ganging, as he rememberis, with my lord Duik, or with swme vther nobill man; to quhome the said Mr Thomas said, 'The report and brute is, my lord, that his Maiestie is gane to the South Inche.' Quhairvpoune my lord desyrit him to 'to hawe his hors readie, that he nicht follow;' quha³ answert, 'they³ war in Scone; and sa being his Maiestie in the Inche, it vald be hard or they come furth thair⁴ and to ourtak his Maiestie.' Thairefter, he followit my lord through the hall to the wtter clois, and thairfra the said Mr Thomas passit to the bak clois to seik his boy, for sending of him to Scone for the hors; quhome he culd nocht find: And quhill he wes thair, he hard ane tumult and din; and thairvpoune come throch the wtter clois to the for-3eatt, inquiring all the gett,⁵ 'Quhat the matter fuld be?' And in the end, seing my lord his maister strugling befor the 3eatt, with certane of Tullibardins seruandis, young Tullibardin being present; he, swa far as he nicht, with the help that was present, freithit⁶ my lord fra present strugling. In the meane quhill of the said strugling, my lord fell on his henche and elbo; bot ryfing agane, passit vp the gait, foirnent Archibald Makbrekis, quhair he drew his tna fuordis furth of ane ikabert; quhillk the said Mr Thomas seing, being jowp alane,⁷ lwit his klok fall,⁸ and lykwayis drew furth his fuord, inquiring of my lord, 'Quhat the fray was, and quhat he wald do?' To quhome my lord answert, 'He wald gang in to his awin hows, or die be the way.' Quhair-to the said Mr Thomas replyit, he vald gang befor him; bot prayit his lordschip to tell him, 'quhome at he fuld straik, becaus he knew nocht quha was pairtie.' And sua, tindingy fordvar to the 3eat, ane pat ane fleilbonet on my lordis hede; quha it vas he knowis nocht. Proceeding fordvar, at the awld turnepet dur, the Maister of Gowrie was lyand, quhiddir deid or hurt he knew nocht; and nocht perfyldie knowing quha than it was, becaus he saw nocht his face; spearing quho it was, my lord baid, 'Vp the flair!' And he passing fordvar, at my lordis command, nawayis knowing quha followit, my lord come to ane chamber, quhair he saw Sir Thomas Erkin, Doctour Hereis and Jhone Ramsay standin with drawin fuordis; quhillk Doctour Hereis, presenting his fuord to stop the entrie, Mr Thomas said to him, '3eall theiff! dar thou?' Doctour Hereis answert, 'A Mons⁹ Cranstoune!' Quhillk Mr Thomas said, 'Theiff! gif thou be innocent of 3one fklachter, come furth and I fall varrand the.' Thairefter, my lord and Jhone Ramsay jokit:¹⁰ The rest straik swme straikis at Mr Thomas, and he at thame. Quhow my lord and Jhone Ramsay sched¹¹ he knew nocht, alwyis¹² Mr Thomas deilling with the rest. Jhone Ramsay straik the said Mr Thomas throw the body; and thairefter wes strukin at, he belewis be Doctour Hereis, bot nocht throch the body. Quhillk Mr Thomas, missing my lord, lap¹³ out at the dur and come furth of the place. Efter all, Mr

¹ From the original, preserved among the Warrants of Parliament, General Register House.

² Fr. *bruit*.

³ His horses were at Scoon, his usual residence.

⁴ Ere they could be sent for from Scoon, a distance of two or three miles.

⁵ Way.

⁶ Freed, delivered.

⁷ Apparently, in extremity of peril, without adequate means of assistance. Perhaps from O. Fr. '*jupper*,' to shout or cry aloud. '*Jupperty*,' in old Scots, signifies a dangerous enterprise, from O. Fr. '*jeu-perdu*—or rather, '*jeu-parti*,' a hazardous game.

⁸ Disencumbered himself of his cloak, by dropping it on the ground.

⁹ For *Monsieur*, as is afterwards explained.

¹⁰ Probably for '*yokit*,' or engaged in combat. '*Jowkit*,' would signify a dexterous evasion of thrusts; but there was no room in that apartment for such a display of the art of self-defence.

¹¹ Separated.

¹² Ever, continually.

¹³ Leaped, sprung.

Thomas protestit, in prefens of God, that he nether was with my lord, nor with the Maister; nether hard spokin with any of thame, befor this twmult, nocht sax wordis, fourtene dayis ofbefor: And protestit lykvyis, in the prefens of God, that he newer knew my lord nor the Maister to have pretendit¹ any thing aganes the Kingis persone: And forder protestit, that na suspitioun be tane of his name, as being callit Mr Thomas Cranstoun; becaus it is of weritie, that he passit furth of this cuntrie vpoun the third day of Februar I^m.V^c. fourfeoir nyne yeiris, and retwrnit nocht thairefter thairto quhill the morne efter Peace-day,² in the yeir of God I^m.V^c. fourfeoir sewentene yeiris: Quha passing thairefter to France, quharfra he came hether, remanit quhill he come hame with the Erle of Gowrie. And in the mair verificatioun heirof, the said Mr Thomas subscrivit thir presentis with his awin hand.

(Sic subscribitur)

M. P. GALLOUAY, witnes.

OLIPHER YOUNG, Bailze, witnes.

A. RAY, Balinus, witnes.

MR THOMAS CRANSTON.

JAMES ADAMSONE, witnes.

VILLIAME JAK, witnes.

HENRIE ELDER, witnes.

CRAINGELTIS DEPOSITIOUNE.³

AT FALKLAND, the xvj day of August, 1600. IN prefence of my Lordis Chancellar, Secretar, Justice Clark, Comptrollar, Schir George Home of Spot, Schir Patrik Murray and Mr William Hert, Justice.

GEORGE CRAINGELT being examinat, Deponis as followis. DEPONIS, that he newir hard the Erll of Gowrie, sen his hamecuming, speik any thing anent the mislyking or revendge of his fatheris deathe, nether in priuat or publict. Deponis, that he desirrit, at all tymes, Mr William Rind, quha had my lordis eare by⁴ ony man, to perswaid my lord to keip him self in the Kingis favour and obedience; in respect of jelosie that wes amangis thame: Quha answairit, that he sould do all that he culd to perswaid my lord sa to do; and that it wes best sa to do.

Being inquirit, gif he, being in cumpany at the latter meit,⁵ befor my lordis ganging to Strabrand with Andro Henryfoun and Mr William Rind, said, that 'thair apperit to be sum elast⁶ betuixt his Maiestie and my lord; and that it wes verray meit it wer foirfene; and quhat suld eum of it?' Answairit, that he denyis it planelie, that euir he spak it or hard of sic a thing.

Denyis, that during my lordis being in Strabrand, nather yit in St Johnstoun,⁷ estir his cuming fra Strabrand, he knew ony man or page to cum fra Court to my lord; or that he commandit to gif thame any meit or drink.

Deponis, that my lord and his broder vsit at all tymis maist familiar conference, quhen my lord had na vthir cumpany.

Deponis, that at my lordis being in Strabrand, Sandie Ruthven come fra Dunkeld to my lord: And that vpoun Fryday, my lord directit Capitane Ruthvene to ryde, and tell my Lady that he wes to cum; and Capitane Ruthven mett my lord at the cobill,⁸ and raid bak to Dunkeld with my lord; quhair he, having sowpit, returnit to his bed to Trochene, the deponer being in cumpany.

Denyis, that he knew any thing of the Maister or Andro Henryfonis ryding to Falkland, vpoun the Tyisday the fift of August. Declairis, that he wes lyand in his naikit bed that day; quhill estir the Kingis cuming, that Thom Eldar and Johnne Barroun come till him and baid him ryise, and said 'the King wes cum.' Quhill he did, and come to the kitcheing, quhair he fand na appeirance of meit for the King; and thairfor fend out to Duncane Robertfonis housse, quhair he gat a murefoule.⁹ And thaireftir, this deponar causit mak reddy a schoulder of muttoun and a hen; quhill wes lang in doing. And that he thaireftir went vp and brocht down sum straberries and drestit fyve or sex dischis of desert: And in the ganging vp the stair, met the Maister of Gowrie buittit, and inquirit at him, 'Quhair he had bene?' Quha answairit, 'Ane eirand nocht far af.' And the deponar inquirit agane, 'Quhat movit

¹ Designed, plotted.

² 'Pais,' 'Pasche,' Easter.

³ From Original, among Warrants of Parliament.

⁴ More than.

⁵ Probably the last service or course, or the dessert at dinner.

⁶ Grudge, cause of offence;

literally, *eye-sore*.

⁷ Perth.

⁸ Ferry-boat.

⁹ Muir-fowl, grouse.

the King to cum fa suddanlie, vnluikit for?' Quha anfuerit, that 'Robert Abircrumby, that fals knaiff, had brocht the king thair, to caus his Maieftie tak ordour for his debt.'

Deponis farther, that the Erll of Gowrie that day neur fpak word to the deponare, nor defirit him to mak any prouifioun for the Kingis cuming.

Deponis, that, eftir the Kingis dennar, he gart tak vp the Duk and the Erll of Maris dennar: Quhilk endit, he caufit James Erkin and the feruandis dyne; lyke as, the deponar fat down with thame, and fat quhill thai hard a tumult on the gait. And then he and the rest at the table raife, and went altogidder to the cloife, quhair the deponar faw the Maifter lyand deid, at the fute of the Blak turnepyke; and that the deponar cryit then, 'Quhair is my lord?' And faw na body befide the Maifter; and that he ran out at the 3ett, and mett my lord at the 3ett, cumand in with tua drawin fuordis in his hand, a knappifcall¹ bonat on his heid, and a cumpany of ten or tuelff with drawin fwordis with him. Rememberis, that Mr Thomas Cranftoun and Hew Moncreiff wes with my lord, quha enterit togidder, with thair drawin fwordis, in at the Blak turnepyke. And the deponar herd ane cry, 'Keip the 3ett!' Quhilk movit him to rin in about the nuke of the houle, to the bak 3ett of the 3aird,² to fe that na man ifchit that way; with whom paff a nowmer of ten or tuelff rafkallis of the toun. And the deponar being thair, Mr Thomas Cranftoun come till him, and baid 'Keip that 3ett!' And deponis, that lykuife that he faw Mr Williame Rind in the 3ard, and baid his fister ga hir way. And that Mr Thomas and Mr Williame pairtit fra him thair, immediatlie, without forder fpeche. And that the deponar, having remanit thair a quhill, come bak to the cloife, quhair he faw Hary Ruthven cum doun the Blak turnepyke; quha faid to the deponar, that 'my lord wes hurt vp in the chalmer.'

Being thaireftir inquirit, 'Quhair he gat the twa-handit fword, quhilk he had drawin in his hand?' Anfuerit, that quhen he raife with the rest fra his dennar, hering the tumult, he paff to the pantrie to feik his fword, quhair the Dur wes fleikit;³ and fa he went vp to my lordis chalmer, quhair he fand the twa-handit fword; and come immediatlie doun to the cloife with it; and faw Mr Alexander Ruthven lyand deid in the Blak turnepyke, as faid is.

Declaris, that he neur fpak a word with Cryftie that day; or that euir he fpak a word with him, of the fufpitioun betuix the King and my lord, at any vther tyme.

Denyis, that he wes vp the Blak turnepyke ony tyme that day.

Denyis, that eftir the dennar, he baid Barroun or Cryftie the Portar follow him; or that he and they went in at the Blak turnepyke togidder.

Deponis thairefter, that Johne Barroun and Barroun Fandowie brocht the Maifter out of the chalmer, quhan he wes flaying, doun the Blak turnepyk stair; and that the faid John Barroun fpak that to this deponare.

Deponis, that befor my lordis ganging to Strabrand, vpoun a nycht at ix houris at evin, my lord gart ifche⁴ the chalmer, quhair remanit onlie Mr William Rind, Mr Thomas Crauftoun and a tail3eour: And that vpoun the morne thairefter, that Mr Williame Rind declairit to the deponar, that my lord wes feyand⁵ on a py dowblett,⁶ with⁷ the taill pecis for the wamb.

(Sic fufcribitur)

G. CRAINGELT.

¹ Often written 'knapschaw,' and 'knapishay.' A 'steel-bonnet,' or helmet, fitting close to the skull, of a round form. It seems often to have been fitted into the usual bonnet, or other head dress, and worn along with the 'seeret,' or chain-mail, to avoid the appearance of being fully armed.

² Yard, garden. ³ Shut, fastened. ⁴ Make void or empty; he desired those in the chamber to retire, excepting, &c. ⁵ Trying, assaying. ⁶ Often called a 'Seeret,' being a kind of chain or plate armour strongly quilted into the breast of the dress, for the sake of concealment. There have been many conjectures as to the meaning of the word 'py,' or, as it is more frequently written, 'pyne,' which appears to the Editor to be from O. Fr. *peigne*. 'Faire peigne,' to give one the slip, to elude by craft or stratagem, &c. Mr Arnot thinks it was so called, from being 'worn by pions or foot soldiers.'—*Trials*, p. 31. But there was no occasion for their armour being concealed. It is worthy of remark, that in the struggle between Mr Alexander Ruthven and the King, when Sir John Ramsay came to the King's rescue, the latter instantly exclaimed, 'Fy! strik him laich, becaus he hes ane pyne-dowlit vpoun him!' ⁷ The words, 'the theis (thighs) and,' are deleted from the Deposition.

THIS deponar, being re-examinat this day, at efternone, deponis, that the tumult raise at the end of the latter meit; and that he, with his Maiesteis officeris, ran furth of the hall; and that he went to the pantrie to feik his sword, and the dur being steikit, he went vp to my lordis chalmer, quhair he fand ane twa-handit sword, and come doun immediatlie to the cloise, drew it and keist the skabert away, quhan he saw Mr Alexander lyand deid in the fute of the Blak turnpyke: And then immediatelie went to the zett, and mett my lord cumand in thairat, with tua drawin swordis in hand, and ane cumpany with drawin swordis with him. And that the deponar come bak to the cloise with him, quhill my lord enterit, and his cumpany with him, in at the Blak turnpyke; and then the deponar hard a cry gang-and, 'Keip the bak zett!' Quhairvpoun he past to the bak zett; bot quha cryit, he knew not. Being inquirit, 'Quhy he went not vp with my lord, his maister, in at the Blak turnpyke?' Deponis, that the heiring of the cry, to gang to keip the bak zett, movit him to gang thair.

(Sic subscribitur)

G. CRAIGINGELT.

APUD EDINBURGH, *quarto die mensis Novembris anno domini millesimo sexcentesimo, per dominos Commissarios subscriptos, viz. Joannem Comitem de Montrose Cancellarium, Alexandrum Magistrum de Elphingstoun thesaurarium, D. Jacobum Elphingstoun de Barntoun secretarium, Petrum Episcopum Dunkelden., Jacobum Commendatarium de Inchechaffray, Edvardum Commendatarium de Kinlose, Marcum Dominum Newbuttil, Alexandrum Dominum Fyrie; Thomam Fischer et Georgium Hercott pro Edinburgh, Alexandrum Rutherford pro Aberdeen, Jacobum Forret pro Glasgow, Jacobum Drummond pro Perth; Commissarios s. d. n. Regis specialiter constitutos, per Commissionem, datum sub testimonio Magni Sigilli; Vnucum Thoma Scott deputato Mariscalli, Gulielmo Henrysoun et Gulielmo Hay pro Constabulario, Daniele Grahame et Joanne Frazer pro Vicecomite, et Thoma Cannayuhane adjudicatore.*

The Earl of Gowrie's Conspiracy—Forfeiture of the Brothers of the late Earl, &c.

Nov. 4.—WILLIAME RUTHVEN as brother and heir apparent to vmq^{le} Johne Erle of Gowrie, and Mr Alexander Ruthvene and his tutors and curators, &c.: ALEXANDER and HARIE RUTHVENIS, sonnes to vmq^{le} Alexander Ruthvene of Foreland, HEW MONCREIF, brother Germane to Williame Moncreif of that ilk, PATRIK EVIOTT, brother to Colene Eviott of Balhouffie, and ANDRO HENRYSOUN chalmerlane of Scone.

The quhilk day Maister Thomas Hammyltoun, aduocat to oure Souerane lord, producit, in presens of the saidis lordis Commissionaris,¹ ane Summondis of Treasour, dewlie execute and indorsat aganis Villiame Ruthven, brother and apperant air to vmq^{le} Johne Erle of Gowrie and Maister Alexander Ruthvene, and the said Williames tutouris and curaturis, gif he ony hes, and all vtheris have-

¹ See Records of Parliament, Acta. 1600, fol. 192.

and or pretendand to have interes in the mater of Treassoun vnderwrittin; to heir and sie it be fundin and declarit, that the saidis vmq^{le} Johne Erle of Gowrie and Mr Alexander Ruthven to haue committit Treassoun aganis our souerane lord, in bereving of his Maiestie of his lyfe, at Sanct Johnstoun, the fyft day of August last bipast. The quhilk summondis being callit thryse at the bar, and the said Williame Ruthven nawayes comperand; and thairefter, Johne Blinfull Hays, herauld, comperit and maid fayth, that he lauchfullie summonit the said Williame Ruthven at the zett¹ of Dirltoun, vpoun the tuentie aucht day of August last bipast, and that vpoun the samyn day he summond him at the marcat croces of Edinburgh, Hadingtoun, schore and peir of Leyth; and that vpoun the penult day of August, the yeir of God foirsaid, he summond the said Williame Ruthvene at the marcat croce of Perth, Scone, and Kinroschire, and his tutouris and curatouris, gif he ony hes, and all vtheris haveand or pretendand to haue enteres in the foirsaid actioun and cause of Treassoun; and that he execute the samyn summondis of Treassoun at the samyn places, befoir William Ramsay trumpatar, Robert Eldar messinger in Edinburgh, Thomas Wallis and Williame Baxter postis in Edinburcht, David Gray thair, and David Young thair, Vpoun the verificatioun of the executioun of the said summondis of Treassoun, and that the said Williame Ruthvene nor nane vtheris comperit in the said mater, the said Aduocat askit instrumentis.

And siclyk, the said Aduocat producit ane vther Summondis of Treassoun, rasit at the instance of oure souerane lord and his hienes Aduocat, aganis ALEXANDER and HARIE RUTHVENIS sonnes to vmq^{le} Alexander Ruthvene of Freland, Hew Moncreif brother germane to Williame Moncreif of that Ilk, Patrik Eviott brother to Colene Eviott of Balhouffie, (and Andro Henryfoune chalmerlane of Scone,²) to heir and sie thame decernit to haue committit Treassoun and Lesemaiestie aganis oure souerane lord, at Perth, the fyft day of August last bipast; as at mair lenth is contenit in the said summondis. The quhilk summondis being thryse callit at the tolbutth window, and nane of the saidis persones comperand, except the said Andro Henryfoun, quha, at command of the saidis lordis Commissionaris of this present Parliament, wes brocht furth of the tolbutth of Edinburcht, and brocht and presentit be George Todrik baillie of Edinburcht befoir the saidis lordis Commissionaris. And immediatlie thairefter, comperit personalie in presens of the saidis lordis Commissionaris Johne Blinfull Hays herauld, and maid fayth that he lauchfullie summond the said Andro Henryfoun, personalie apprehendit within the said tolbutth of Edinburcht, vpoun the tuentie aucht day August last bipast; and alse, that he vpoun the penult day of the samyn moneth of August summond the saidis Alexander and Harie Ruthvennis, Hew Moncreif,

¹ Gate.² Afterwards ordered to be deleted.

and Patrik Eviott and the said Andro Henryfoun at the mercat croces of Perth, &c. Vpoun the verificatioun of the executionis of the foirfaidis summondis of Treassoun, and that nane of the foirfaidis perfonis comperit to defend in the said mater, except the said Andro Henryfoun, the said Mr Thomas Hamyltoun of Drumcarne, aduocat to our fouerane lord, askit instrumentis. And siclyk, the said Aduocat askit instrumentis that he presentlie producit, in presens of the faidis lordis Commiffionaris, oure fouerane lordis Letter of Relaxatioun, gevin vnder his hienes signet, at Edinburcht, the thrid day of October lastbypast, berand, the said Williame Ruthven, Alexander and Harie Ruthvenis, Patrik Eviott and Hew Moncreif and Andro Henryfoun to be relaxit fra all Horningis execute aganis thame at the instance of quhatfumeuir perfonis, at the mercat croce of Edinburcht, vpoun the tuentie day of October last bipast; and alsé, berand the faidis perfonis to be relaxit from all Hornings, at the mercat croce of Perth, vpoun the tent day of October the yeir of God foirfaid; and lykwyis, to be relaxit, at the marcat croce of Hadingtoun, vpoun the last day of the samin moneth of October last bipast: The quhilkis Letter of Relaxatioun, executionis and indorfationis thairrof, wer dewlie and lauchfullie registrat in the Schiref court buikis of the schirefdomes within the quhilkis they wer relaxit fra the faidis Horningis.

The lordis commiffionaris of this present Parliament Ordanis the said Andro Henryfoun to be tane to the tolbutth of Edinburcht, to be kept thair in waird as he wes ofbefoir: Quhilk Andro wes instantlie delyuerit to the said George Todrik baillie. Quhairvpoun the said Aduocat lykwayis askit instrumentis.

REGE ipso presente, cum omnibus regni statibus. Vnacum Francisco Comite Arrolie Consulario Scotie, Georgio comite Mariscalli, et Daniele Grahame deputato vicecomitis de Edinburcht et Dauide Lyndesay adiudicatore.

Nov. 11.—The quhilk day, the said Maister Thomas Hammyltoun, aduocat to our fouerane lord, of new producit the said summondis of Treassoun dewlie execute and indorfat, aganis WILLIAME RUTHVEN, brother and appellant air to vmq^{le} Johne Erle of Gowrie, and Maister Alexander Ruthven his brother, and the said Williames tutouris and curatouris, gif he ony hes, and all vtheris haveand or pretendand to haue interes in the said mater of Treassoun, to heir and sie it be fundin and declarit, that the said vmq^{le} Johne Erle of Gowrie and Maister Alexander Ruthvene his brother committit Treassoun aganis oure said fouerane lord, in maner specefeit in the said summondis, vpoun the fyft day of August last bipast: The quhilk Williame Ruthven, his tutouris and curatouris and all vtheris haveand or pretendand to haue enteres, being thryse callit at the

tolbuth window, and the said Williame Ruthven nor nane vtheris in his name comperand to haue anfuert to the said summondis ; quhairvpoun the said Aduocat askit instrumentis. And thairefter, the said Johne Blinfell, Ilay Herauld, comperit personalie in prefens of the Kingis Maiestie and estaitis, and maid fayth that he lauchfullie summonit and warnit the said Williame Ruthven, at the place of Dirltoun, vpoun the xxviij day of August last bipast ; and that vpoun the samin day he summond him at the mercat croces of Edinburcht, Hadingtoun, and at the schoir and peir of Leyth : And alse, that he vpoun the penult day of the said moneth of August, summond the said Williame Ruthvene at the mercat croces of Perth, Scone and Kinrofschire, &c. : As the executionis thair of beris. Vpoun the verificatioun of the executionis of the quhilk summondis of Treassoun, and that the said Williame Ruthven nor na vtheris in his name comperit nocht to defend in the said mater, the said Aduocat askit instrumentis.

And siclyk, producit ane vther summondis of Treassoun, rasit at the instance of our said fouerane lord and his hienes aduocat aganis Alexander and Harie Ruthvenis, sonnes to vmq^{le} Alexander Ruthven of Freland, Hew Moncreif, brother germane to Williame Moncreif of that Ilk, Patrik Eviot brother to Colene Eviot of Balhouffie and Andro Henryfoun chalmerlane of Scone, to heir and sie thame decernit to haue committit Treassoun and Lesemajestie aganis oure said fouerane lord, at Perth the fyft day of August lastbipast ; in manner contenit in the summondis of Treassoun rasit thairvpoun. The quhilkis persones being thyrse callit at the tolbuth window, and nane of thame comperand, except the said Andro Henryfoun, quha comperit be Mr Thomas Henryfoun ane of the Commisaris of Edinburgh, quha producit this writting vnderwrittin, subscrivit be the Kingis Maiestie ; quhairof the temmour followes.

REX,

ADUOCAT, it is our will, and We command ȝow, that vpoun the sycht heirof, ȝe delete Andro Henryfoun, chalmerlane to vmq^{le} John Erle of Gowrie, his name, furth of ȝe summondis of Treassoun and Forfaltour, rasit and execute aganis him, ffor his being airt, pairt, red, counsaill and conceilling of the lait Treassoun, conspyrit be the said vmq^{le} Erle, his vmq^{le} brother and complices, aganis oure persone : As ȝe will anfuert to ws thairvpoun : Keipand thir presentis for ȝour warrand. Subferyuit with our hand, At Halyrudhous, ȝe xj day of November, 1600.

(Sic subscribitur)

JAMES R.

Conforme to the quhilk command, the said Aduocat instantlie delete furth of the said summondis of Treassoun the said Andro Henryfoun, and scorit his name furth thair of. Quhairvpoun the said Maister Thomas Henryfoun askit instrumentis.

And thaireftir, comperit personalie in prefens of the Kingis Maiestie and estaitis, Johne Blinfell, Ilay Herauld, and maid fayth that he lauchfullie summonit and warnit the saidis Alexander and Harie Ruthvenis, Hew Moncreif and Patrik

Eviott, vpoun the penult day of August lastbipast at the marcat croces of Perth, &c. Vpoun the verificatioun of the executionis of the foirsaid summondis of Trefsfoun, and that nane of the foirsaidis perfones comperit to defend in the said mater, the said Maister Thomas Hammyltoun, aduocat to oure fouerane lord, askit instrumentis, &c.

REGE presente, &c.

Nov. 15.—The quhilk day, Mr Thomas Hammyltoun of Drumcarne, aduocat to our fouerane lord, producit in prefens of the Kingis Maiestie and haill estatis of parliament, lykas he did diuerse tymes of before the said tua summondis of Treassoun, &c., the quhilkis tua summondis, reffones and causes thairin contenit, being first red in prefens of the Kingis Maiestie, and in prefens of the Lordis of Articles,¹ they fand baith the samyn summondis relevant. And thair-
eftir, this instant day, baith the saidis summondis of Treassoun being red in prefens of the Kingis Maiestie and haill estaittis, and the said William Ruthven, his tutouris and curatouris, and all vtheris haveand, or pretendand to haue, enteres; the saidis Alexander and Harie Ruthvenis, Patrick Eviott and Hew Moncreif, being thryse callit at the tolbutth window, and nane of them compe-
rand, the saidis haill estaittis fand baith the saidis summondis, reffones and causes thairin contenit relevant; and thairfoir they admittit the samyn to the said Aduocattis probatioun. And immediatlie thaireftir, the said Aduocat, for preving of the pointis of baith the saidis summondis of Treassoun, producit the Lettre of Horning, dewlie execute and indorfat aganis the saidis Alexander and Harie Ruthvenis, Hew Moncreif and Patrik Eviott, and that they were denun-
cit rebellis and put to the horne, for the crymes of Treassoun thairin contenit. And repetit the haill Depositionis of the witnesses examinat befor the Lordis of Articlis: And the Depositionis of vmq^{le} Mr Thomas Cranstoun and George Craingingelt; and thair executioun to the death, for the foirsaid cryme of Treaf-
foun. And last, the said Aduocat repetit the notorietie of the deid of the said Treassoun, togidder with the haill circumstances of the said mater; and renun-
cit forder probatioun for preving of the pointtis of baith the saidis summondis of Treassoun; and desyrit the said proces to be advyfit. And thairvpoun the said Aduocat askit instrumentis.

The quhilk day, the said Aduocat, eftir that he had repetit and producit all

¹ LORDIS OF THE ARTICLES. EPISCOPI, Dunkelde, Brechmen.—ABBATES, Halyrudhous, Lun-
doris, Blantyre, Inchaffray, Kinlofe, Townglane.—COMITES, Lennox, Arroll, Marschall, Mar.—
DOMINI, Setoun, Levingstoun, Newbntill, Fyvie.—BARONES, Sir James Hammyltoun, Innerweik for Hadingtoun, Craighall for Fyff, Kinnard for Forfar, Drum for Kincardin, Inchemartine
for Perth, Tutour of Cromartie for Cromartie—COMMISSARIJ BURGURUM, Thomas Fischer and
George Hereott for Edinburgh, Constable of Dundie for Dundie, James Drummond for Perth, Alex-
ander Rutherford for Aberdene, James Forrest for Glasgou, George Bruce for Culrofe, Laird of
Darrie younger for Sanctandrois, Johne Williamfoun for Striviling.

his probationis to the saidis haill Estaitis, quhilkis he wald vse, for preving of the pointis of the saidis summondis of Treassoun, rasit and persewit at the instance of our said souerane lord and his hienes Justice, aganis the said Williame Ruthven, bruther and apperant air to the said vmq^{le} Johne Erle of Gowrie and Alexander Ruthven his brother, his tutouris and curatouris, and all vtheris haveand, or pretendand to haue interes, in the mater of Treassoun vnderwrittin; quhairby they wer summond to haue comperit befor our said souerane lord and his Estaitis of Parliament, at ane certane day bigane, with continewatioun of dayes, to haue answert to the pointis and crymes of Treassoun and Lesemaiestie contentit in the saidis summondis: Off the quhilk summondis the tennour followes:

SUMMONDIS of TREASSOUN aganis WILLIAM RUTHVEN, as bruther and apperent air to vmq^{le} Johne Erle of Gowrie, and Alexander Ruthven his brother.

JACOBUS, Dei gratia Rex Scotorum, dilectis nostris Leoni Regi Armorum, Merchemount, Ilay, Rofs, Rothefay, Albanie, et Snawdoun, Heraldis; Roberto Stewart, Daudi Brysoun, Alexandro Dowglas et Jacobo Chalweris, clavigeris; Ormount, Bute, Vnicorne, Carrik, signiferis, nuncijs ac eorum cuilibet, coniunctim et diuisim, vicecomitibus nostris in hac parte, salutem. Mandamus vobis et precipimus, quatenus summoneatis legitime et peremptorie, coram testibus, Willielmum Ruthvene fratrem et heredem apparentem vel successorem quondam Joannis Comitis de Gowrie et quondam Magistrum Alexandri Ruthven sui fratris, personaliter, si eius personalem presentiam commodè habere poteritis, alioquin apud locum sue habitationis; si vero extra regnum nostrum fuerit, quod summoneatis dictum Willielmum Ruthvene et omnes et singulos eius tutores et curatores, si quos habet pro suo interesse, necnon omnes et singulos alios interesse habentes seu pretendentes, per publicam proclamationem, apud cruces forales burgorum nostrorum de Edinburgh, Hadingtoun, Perth, aliaque loca necessaria, super premonitione sexaginta dierum, ita quod huiusmodi summonitio ad eorum aures et notitiam verefimiliter pervenire poterit, ad comparandum coram nobis nostroue Justiciario quarto die mensis Nouembris proxime futuri, hora causarum, cum continuatione dierum, in Parlamento nostro tenendo apud Edinburgh primo die dicti mensis Nouembris sequentis, ad respondendum nobis seu nostro Justiciario in prefato Parlamento, ad videndum atque audiendum, per nos et trium regni nostri statuum decretum et sententiam decerni, dictos quondam Joannem Comitem de Gowrie et quondam Magistrum Alexandrum Ruthven eius fratrem, crimen Lesemajestatis in ipsorum vita commississe. PROPTEREA quod, omni Dei metu, Principis respectu, et legum rejecta reuerentia, nostrorumque immemores beneficiorum, qui ob paterna crimina Majestatis damnatos ab exilio, infamia et egestate reductos, ad summas opes summofque honores ereximus, ingenitum tamen in nos prodentes odium, incredibilemque nostram benevolentiam, incredibili atque inaudita ingratitude compenantes, in mense Julio proxime preterito, et initio Augusti instantis, proditionem nostram perniciem et necem conspirarunt: Quoque scelerata et nefaria consilia facilius exequerentur, dictus quondam Joannes Comes de Gowrie, quinto die Augusti instantis, dictum quondam Magistrum Alexandrum Ruthven fratrem suum Falcolandiam summo mane misit, ut nobis persuaderet, se, inscio dicto Comite fratre suo, ingentem auri vim ab obscuro homine quodam repertam detexisse, ac thesaurum ipsum repertoremque eius clam omnibus artissime mandasse custodie, donec omnia pro nostro jure nobis declararet, sperare autem nos talis sui erga nos officii memores et auri portione et omni alio sanore se remuneraturos, expedire vero ad vitandum

suspicionem, ut sine ullo comitatu, prohibeat sequi domesticorum solita turba, Pertham secum proficisceremur; quo in suam nos potestatem ex animi sententia redactos minori negotio trucidarent. Cuiusquidem tragedie mandatas sibi partes, dictus quondam Magister Alexander, incredibili calliditate et confidentia, agens suavissima oratione vultuque ac verbis benevolentiam, reuerentiam, fidem humillimumque erga nos obsequium spondentibus, quod cupit facile persuadet, Nosque, nihil vel fraudis vel periculi subesse suspicantes, paucissimis, ipsique inermibus, comitati serius inparatas ducentem insidias, sicuti Pertham contendimus. Comes interim nos adventare stipatoribus, armis, aliisque omnibus ad defensionem necessariis destitutos, primo per Andream Henderfoun, secundo per Andream Ruthvene, per dictum Magistrum Alexandrum premissos, monitus, ac postremo per ipsum Magistrum Alexandrum certior factus, et execrandam Conjuracionem callidissime dissimulans, obuiam nobis extra urbem progressus, intra menia et aedes suas detestando facinori destinatas perfide deduxit: Ibique dum prandii specie aliquandiu, donec omnia ad cedem necessaria pararentur, detinet, in secretius cubiculum cum dicto quondam Magistro Alexandro fratre suo et dicto Andrea Henderfoun, quem lorica et galea armare se iusserat, ingressus, dicto Andree imperat, ut quicquid dictus Magister Alexander juberet strenue exequeretur; ipsumque Andream quid imperare vellet curiosius sciscitantem, obserato ostio, donec ipsi ad perpetrandum facinus redirent reliquit. Ac rebus ita dispositis, dictus quondam Magister Alexander ad dictum cubiculum, magnifica se ibi promissa perfecturum affirmans, nos facile attrahit: Vero Comes, quo omnem omnino opem auxilij spem nobis in tanto discrimine eriperet, rumorem de nostro per posticum subito decessu, per certos familiarum suorum spargens, eumque dictus Comes et Magister Thomas Cranfoun eius seruus, verum esse charissimis consanguineis nostris Ludouico Lennoxie Duci et Joanni Marrie Comite paucisque alijs domesticis nostris qui forte aderant impudenter asseverantes; ut comites nostri ita decepti, citatis equis, ex urbe prorumpentes Falcolandiam, quo nos contendere dictus Comes affirmabat, celerrime sequi niterentur. Dictus interim quondam Magister Alexander, multis a tergo obseratis ostiis, ad illud tandem conclave in quo dictum Andream Henderfoun armatum, ut diximus, in insidijs locaverat, nos perduxit, scelestissimoque perpetrando facinori tunc aduenisse tempus ratus, tecto capite, in nos proditorie irruit, ac sedissimis prosequutus conviciis presentem mortem admoto ad jugulum nostrum pugione minatus est: Nos vero et resistere quantum inermibus licuit, et persuadere nitentes, ut a seuo detestando et proditorio scelere, sine ulla iusta causa aut vilius boni futuri spe suscepto, desisteret et ad saniora consilia rediret; promissa etiam attemptate Proditionis si recipisceret venia, rapidum perditissimi hominis furorem paulatim ita retudimus ut se Comitem quid de nobis statuere vellet consulturum responderet; et in dicto cubiculo, captiuos nos obserato post se ostio relinquens: Moxque rediens, moriendum instanter nobis esse pronunciauit, ac colligari manus nostras, quo vinctum facilius interficeret, vocato ad auxilium suum dicto Andrea Henderfoun, conatus quum mori potius quam talem ferre ignominiam, paratos nos et strenue resistentes cerneret enses stringere, nosque eo conficere proditorie parans, nos, nullis armis, nullis comitibus sed sola Dei Omnipotentis ope fulti, fortiter resistere cepimus: et manus illius firmiter retinentes, post diuturnam luctam, cubuli fenestram que precipuam Parthie plateam respicit, eo invito, aperuimus, et dictos nostros fidos consanguineos Ludonicum Lennoxie Ducem, Joannem Marrie Comitem, qui ibi forte equos suos ut nos consequerentur expectabant cernentes, ad auxilium aduersus horrendam Proditionem, et vim vite nostre allatam vocavimus: Cumque illi de nostra magis quam sua salute solliciti in neglecto discrimine celerime procurrerent. Pervenire tamen ad dictum cubiculum, tot ostijs, per dictum Magistrum Alexandrum de industria oclusis, nequiverunt, donec mira Dei Omnipotentis misericordia, fidelissimus nobis adolescens ac familiaris seruus Joannes Ramfay, alio aditu forte ascendens, dicti cubuli ostium aliud, quo dictus Andreas Henderfoun horrore suscepti facinoris territus profugerat, apertum reperiens ingressus, ac vite nostre a dicto quondam Magistro Alexandro vim intentam cernens, opem strenuissime tulit; et aliquot vulneribus dicto Magistro Alexandro inflictis, nobis iuuantibus cubiculo ejecit. Dictus autem quondam Joannes Comes de Gowrie, dum paucos qui forte aderant domesticos nostros auxi-

lium nobis ferre parantes perspicit, omni tandem reiecta dissimulatione, deliberatum facinus propriis manibus perpetrare, nobisque presentem mortem inferre decrevit, atque duobus strictis ensibus ipse armatus, et centum aut eo circa stipatus consciis, qui gladiis, lanceis alijsque armis omnes muniti erant, a Via in aream edium suarum irrumpens, recta ad cubiculum in quo inclusos nos esse noverat properavit, dictumque Joannem Ramsay, Dominum Thomam Erskyne et Hugonem Heres medicum, experte omnes erga nos fidei seruos, qui forte accurrerant vitam suam pro nostra salute profundere, et aditu dicti cubiculi in quo tunc eramus, dictumque quondam Comitem prohibere nitentes, proditorie invadens, dicto Magistro Thoma Cranstone, Hugone Moncreif, Alexandro et Henrico Ruthvenis, Patricio Eviott, multisque alijs domesticis et consanguineis suis stipatus ferociter repulit, et dictum cubiculum in quo nobilissima sacratissimaque persona nostra tunc fuerat, dictis nostris fidelibus servis propugnantibus summo impetu repulsis, et vi ingressus, ac nos ad cedem immanissime ac proditorie persequens, dictos nostros fidelissimos seruos multis vulneribus faucios, fere oppressit; nec aliter a detestande Proditionis feroci ac pertinaci executione destitit, quam a dictis nostris fidelissimis seruitoribus confossus cecidit priusque immanis anima corporis sedem quam detestande nefarie et horrende Proditionis consilium et executionem deseruit. Ilincque dicti quondam Joannes Comes de Gowrie et quondam Magister Alexandro Ruthven eius frater, crimen proditionis et Lesemajestatis commiserunt, contra nos, regalemque nostram auctoritatem, et in apertam legum omnium violationem. ET PROPTEREA, dictus Willielmus Ruthven, frater et heres apparens vel successor dictorum quondam Joannis Comitis de Gowrie et quondam Magistri Alexander sui fratris, omnesque tutores et curatores dicti Willielmi, si quos habet pro suo interesse, omnesque alij interesse habentes seu pretendentes, ad videndum et audiendum, per nos et trium regni nostri Statuum in Parlamento decretum decerni, quod dicti quondam Joannes Comes de Gowrie et quondam Magister Alexander Ruthven eius frater, crimina Lesemajestatis et Proditionis prescripta in sua vita commiserunt: Ideoque nomen, memoriam, et dignitatem dictorum quondam Joannis Comitis de Gowrie et quondam Magistri Alexandri Ruthven sui fratris extinctum esse et fore decerni, armaque et insignia sua de libro Armorum et Nobilitatis deleri, ac cancellari, itaque ipsorum posteris ab officiis, honoribus, dignitatibus, successionibus, possessionibus, bonisque omnibus, mobilibus et immobilibus, juribus, titulis, spe successionis, et alijs quibuscunque in hoc nostro regno gauden. et possiden. seu vilo modo claman. sint inhabiles et incapaces dehinc imperpetuum; atque omnia bona, terras, redditus, officia, beneficia, honores, dignitates, successiones et successionum spem omnem et apparentiam, jura, titulos, possessiones, aliaque jura et bona, mobilia et immobilia, et alia quecunque, que ad dictos quondam Joannem Comitem de Gowrie, et Magistrum Alexandrum Ruthven eius fratrem spectabant, aut vilo jure, titulo, successionis spe, possessione, aut aliquovis modo spectare vel pertinere poterant, confiscari, in nos devolui, ad nos pertinere, et nobiscum deinceps in proprietate perpetuo remanere. Intimando dicto Willielmo Ruthven heredi apparenti aut successori antedict. dictisque tutoribus et curatoribus suis, si quos habet, alijsque omnibus interesse haben. vel habere pretenden. siue compareant siue non, dictis die et loco, cum continuatione dierum, nos et Justiciarius noster nihilominus, Justicia mediante, procedemus et procedet. INSUPER citetis Magistrum Joannem Moncreif advocatum, Alexandrum Blair Juniores de Balhiok, Georgium Hay de Nethertoun Priorem de Charterhous, Robertum Graham de Thornik, Joannem Grahame de Balgoun, Andream Hay Ballium de Perth, Alexandrum Peblis burgensem ibidem, Joannem Murray de Arbeny, Willielmum Robertson notarium in Perth, Gilbertum Richardson ibidem, Willielmum Rynde ibidem, Davidem Rynde ibidem, Joannem Rentoull ibidem, Georgium Forrest ibidem, Thomas Burrell ibidem, Henricum Leyis ibidem, et Robertum Crystie janitorem quondam Comitis de Gowrie; Ludouicum Lennoxie Ducem, Joannem Comitem Marrie, Patricium Commendatarium de Lundoris, Joannem Grahame de Vrubill, Dominum Thomam Erskene de Gogar, Dominum Joannem Ramsay, Dominum Hugonem Heres milites, Robertum Galbraith, Robertum Broun, Jacobum Boig, Jacobum Liddell et Joannem Boig in lie *aill-cellar*, Magistrum Petrum Hay, ad comparandum coram nobis, nostroue Justiciario, dictis die loco

cum continuatione dierum, ad perhibendum fidele testimonium in causa predicta, sub pena legis: Et presentes literas debite executas et indorsatas latori earundem reddatis. Et vos qui presentes executi fueritis, sitis ibidem dictis die et loco, coram nobis vel dicto nostro Justiciario, portantes vobiscum summationis vestre testimonium in scriptis, pro premissis, seu ipsos testes. Ad quod faciendum, vobis et vestrum cuilibet coniunctum et diuisum vicecomitibus nostris in hac parte committimus potestatem. Datum sub testimonio nostri magni sigilli. Apud Edinburghe vicesimo sexto die mensis Augusti anno domini millesimo sexcentesimo et regni nostri anno tricesimo quarto.

Follows the EXECUTIONIS of the foirfaid Summondis.¹

Vpoun the xxviij day of August, the 3eir of God J^m and sex hundreth 3eiris, I Johne Blinshell, Hay Herauld, ane of the schireffis in that pairt within constitute, past, at command of thir our souerane lordis lettres and summondis of Treassoun, to the duelling hous of Alexander Adamefoun in Edinburgh, in vmq^{le} Mr Thomas McCalzeans' clofe, quhair Williame Ruthven, brother and apperant air or successor to vmq^{le} Johne Erle of Gowrie, and vmq^{le} Maister Alexander Ruthven, his brother, maid residence; and lykwayes, to the Castell of Dirltowne, quhair the said Williame resortit and maid sumtyme residence with Dame Dorathie Stewart, Countes of Gowrie, his mother, becaus I culd nocht apprehend him personalie; and at euerie ane of the saidis duelling houffes rex^{ue}, with my displayit coitt of armes and sound of trumpett, eftir I had knokit sex feuerall knokis at euerie ane of the saidis duelling houffes rex^{ue} be vertew of the saidis lettres, in his lienes name and authoritie, I summond, warnit, and chagit the said William Ruthvene, &c.

THE said Maister Thomas Hamiltoun of Drumcarne, aduocat to oure souerane lord, desyrit the saidis Estaitis declaratioun, giff the reffoun of the said summondis wes relevant aganis the said Williame Ruthvene, quhilkis Estaitis all in ane voce stand the samin relevant aganis the said Williame: Thairfor the said Aduocat, of new, for verifeing of the said reffoun contenit in the said summondis of Treassoun, producit and repetit the saidis Lettre of Horning, execute and registrat aganis the said Williame Ruthven, the haill Depositionis of the witneses examinat befor the Lordis of Articlis, with the Depositionis of the saidis vmq^{le} Maister Thomas Craunstoun and George Craingelt, thair executionis to the death for the samin crymes, the notorieite of the said fact of Treassoun and haill circumstances of the said mater; and alsé repetit the haill vther probationis repetit be him of befor in the said mater this instant day; and desyrit the saidis Estaitis of Parliament to advyse the probationes foirsaidis, led and deducit in the said mater, and to pronounce thair Sentence of Parliament thairintill, according to the samin probationes and thair confciences. And thaireftir, the haill wryttis and probationes being red, sene and considerit be the haill Estaitis of Parliament, in presens of the Kingis Maiestie, and they thair-with being ryplie advysit, the saidis Lordis and Estaitis of Parliament findis, decernis and declaris that the saidis vmq^{le} Johne Erle of Gowrie and Maister Alexander Ruthvene, his brother, committit and did oppin and manifest Treassoun aganis oure said souerane lord, in all pointis, articles and maner contenit in the said summondis: And thairfor it wes gevin for dome, be the mouth of Dauid Lyndefay, dempster of Parliament, in manner and forme as followes:

SENTENCE against the deceased EARL OF GOWRIE and MR ALEXANDER RUTHVEN, &c.

THIS COURT of Parliament sehawes for law, that the saidis vmq^{le} Johne Erle of Gowrie and vmq^{le} Maister Alexander Ruthven, his brother, committit the foirfaid cryme of Treassoun and Lese-maiestie, in thair lyfetyes, aganis our souerane lord and his authoritie royall, in maner at lenth contenit in the said summondis: And thairfor decernis and declairis the name, memorie and dignity of the said vmq^{le} Johne Erle of Gowrie and vmq^{le} Maister Alexander Ruthven, his brother, to be extinguischt, and thair armes to be cancellat and delete furth of the buikis of armes and nobilitie, sua that

¹ A small portion of one of the 'Executions' is here given, to show the solemnities, and 'the pomp and circumstance of state' then prevalent, in all official 'charges' for Treason. It is unnecessary to insert the whole of the Executions. They are all in the same style.

thair posteritie fall be vnhabill and incapabill in all tyme cumming to bruik, posses or inioy ony offices, honouris, digniteis, succeffionis, possessionis, and all gudis, moveable and immoveable, richtis, titillis, hope of succeffion, and vtheris quabatsumeuir, within this realme; and all gudis, landis, rentis, offices, benefices, honouris, digniteis, hope and apperance of succeffion, richtis, titillis, possessionis and vtheris gudis and geir, moveable and immoveable, and vtheris quabatsumeuir, quhilkis ony wayes pertenis to the saidis vmq^{le} Jobne Erle of Gowrie and vmq^{le} Maister Alexander Ruthven, his brother; or quhilkis, be ony richt, titill, hoip of succeffion, possession, or ony vther maner of way, nicht haue belangit and pertenis to thame, to be confiscat, deuoluit in oure souerane lord, and to appertene to his hienes, and in all tyme cuming remane in propertie with his Majestie for euir. And forder, his Majestie and Estaitis soirfaidis, in detestationn of the said horribill, vnnaturall and vyill Treassoun attemptit be the saidis vmq^{le} Johne sumtyme Erle of Gowrie, and vmq^{le} Maister Alexander Ruthven, aganis his hienes awin lyfe, Decernis, statutis and ordainis, that the dead bodeis of the saidis Treatouris fall be caryit vpoun Moninday nixt to the mercat croce of Edinburcht, and thair to be hangit, quarterit and drawin, in prefeus of the haill peopill; and thaireftir the heidis and quarteris of their carcages to be affixit vpoun the maist patent pairtis and places of the burrowis of Edinburcht, Perth, Dundee and Striviling. And this I give for dome.

SUMMONDIS of TRESSOUN aganis ALEXANDER and HARIE RUTHVENIS, Jones to vmq^{le} Alexander Ruthven of Freland, PATRIK EVIOTT and HEW MONCREIF.

JACOBUS, Dei gratia Rex Scotorum, dilectis nostris Leoni Regi Armorum, Ilay, Albanie, Ros, Rothofay, Snawdoun, Merchemount, Heraldis; Roberto Stewart, Davidi Bryfoun, Alexandro Douglas, Jacobo Chalmeris, clavigeris; Ormound, Bute, Vnicorne, Carrik, signiferis, Nuncijs, et eorum cuilibet coniunctim et diuifim, vicecomitibus nostris in hac parte, salutem. Mandamus vobis et precipimus quatenus summoneatis legitime et peremptorie, coram testibus, Alexandrum Ruthven et Henricum Ruthvene filios legitimos quondam Alexandri Ruthven de Freland, Hugonem Moncreif fratrem Willelmi Moncreif de eodem, Patricum Eviott fratrem Colini Eviot de Balhouffie, Conspiratores, peperatores et celatores criminum Lesemajestatis subsequentinum, personaliter si eorum personales presentias habere poteritis, alioquin apud loca suarum habitationum, et per publicam proclamationem apud cruces forales burgorum nostrorum de Edinburcht, Perth, Hadingtoun, aliaque loca necessaria, degentes autem vel existentes extra regnum nostrum, seu certum nullum domicilium habentes, apud dictos cruces forales, aliaque loca necessaria, super premonitione sexaginta dierum, ita vt hujusmodi summonitio ad eorum aures et notitiam veresimiliter peruenire poterit: quod compareant coram nobis seu Justiciario nostro quarto die mensis Nouembris proxime futuri, in nostro Parlamento apud Edinburgh, primo die dicti mensis tenendo, hora caufarum, cum continuatione dierum, ad respondendum nobis nostrone Justiciario in prefato Parlamento, super Proditoris criminibus subsequenibus; dictas, viz. personas et eorum quemlibet, pro sua proditoria arte, parte, consilio et auxilio, nefaria et execranda Conspiratione, consultatione, conclusione et perpetratione horrende seuissimeque Proditionis, contra nobilissimam et sacratissimam nostram personam et vitam, per dictas personas et quondam Joannem Comitem de Gowrie, quondam Magistrum Alexandrum Ruthvene eius fratrem, quondam Magistrum Thomam Cranftoun et Georgium Cragingelt eius seruos, aliosque suos complices, ipsorum nomine, ex sua causatione, mandato, assistentia, et ratihabitione, quinto die Augusti instantis, modo subsequenti, commisse et perpetrate. Cum enim dictus quondam Joannes Comes de Gowrie et dictus quondam Magister Alexander Ruthvene eius frater, eximia nostra beneuolentia, innumerisque cumulati beneficiis, inaudita atque incredibili ingratitude, in nostram perniciem Coniurassent; dictusque Comes dictum quondam fratrem Falcolandiam ad nos, dicto quinto die Augusti, misisset, vt eximii commodi obiecta nobis spe Pertham nos alliceret, additis ei Andrea Henderfoun et Andrea Ruthven, itineris socijs, qui dicti Magistri Alexandri iussu de nostro se responso celerrime monerent, dictusque quondam Magister Alexander sus-

ceptas in se tragediæ partes tam callide et simulate egisset, ut nos, omni prorsus suspitione vacuos, facile in suam sententiam pertraxerat, et solita conitum turba sequi prohibita, Pertham secum deduxerat: Premisso interim dicto Andrea Henderfoun, qui nos adventare premoneret; Comes vero, dicto Andree loricæ, galeæ, gladio armare sese iussit, Andree Ruthven adventum expectat, atque ab eo etiam adventare nos certior factus, nec vultu tamen nec verbis se tali quicquam scire pre se ferens, more solito providere incipit: Ac tandem per ipsum Magistrum Alexandrum, nos apud portam urbis adesse monitus, obviam procedit et in edes suas proditorii facinoris destinatas ducens, prandij specie aliquandiu detinet, donec dictum Andream Henderfoun cum dicto quondam fratre in secretius cubiculum vocat; ibique dicto Andree imperat, ut quicquid dictus Magister Alexander juberet sedulo exsequeretur: Et repente ad nos reuersus, paucos familiarum qui nos sequuti erant primo ad prandium: Mox, eo finito, ad hortum, ab ea edium parte remotum, eo consilio invitat, ut nullis arbitris, dictus quondam Magister Alexander, qui prestare que promiserat se velle simulans, ad dictum cubiculum nemine familiarium nostrorum conscio, nos attraxerat, ut securius, sine strepitu villo, vlloue impedimento, nos conficere posset. Cumque dictus Comes, quo omnem prorsus auxilij spem nobis eriperet, falsum rumorem per quondam Magistrum Thomam Cranstoun, seruum suum, de nostro subito descessu sparsisset, nostrique omnes familiares, ipso quoque Comite, adhibito iurejurando, id affirmante, verum esse credentes, in viam precipites prorumperent, ut concensis equis, citato nos cursu Falcolandiam sequerentur. Dictus, interim, Magister Alexander omnia pro voto successisse, tempusque perpetrando facinori advenisse ratus, multis post se observatis ostiis, ad dicti cubiculi conclave nos ducens, dicto Andrea Henderfoun armato prodeunte, dictus Magister Alexander ferociter et proditorie in nos irruit, fedissimisque et falsissimis proscindens conviciis, admoto ad jugulum nostrum pugione, presentem necem minatus est: Nos vero, comitibus, armis, omni-que alia humana ope destituti, ac soli Divini numinis auxilio fulti, gravissima oratione, et si desisteret et ad saniora consilia rediret, promissa etiam Proditionis impunitate, iniquissimi hominis furem paulatim ita repressimus, ut cum fratre consulturum se, quid de nobis statuere vellent, dixerit; et, iurejurando prius a nobis extorto, captivos nos silentisque in suum reditum in dicto conclavi remanuros, obserato post se ostio, nobis inclusis, egressus; breuissimaque interposita mora, rediens, moriendum nobis instantèr pronunciauit: Cumque proditorie colligare nobis manus, quo minori negotio victos interimeret, niteretur, nosque strenue resisteremus ensẽ suum dextera stringere, sinistra vero vocem nobis precludere faucesque abstruere cepit; nos vero, Dei Omnipotentis presenti ope confirmati, ac fortiter reluctantes, invito eo, ad fenestram que precipuam urbis plateam respicit prevenimus, ibique dilectos nostros consanguineos Ludovicum Lennoxie Ducem et Joannem Marrie Comitem conspicientes, qui illic forte equos ut nos consequerentur expectabant ad ferendum nobis aduersus horrendam Proditionem et presentem mortem auxilium, vocauimus: Illi autem, tam insperate Proditionis immanitate percussi, cum ad opem nobis ferendam celerrime qua nos conscendisse audierant, tot ostijs per dictum quondam Magistrum Alexandrum, de industria oclusis, frustra procurrent; benigno tandem haud dubie Dei Spiritu ductore, familiaris noster Joannes Ramsay, adolescens, insolita forte conscendens via per aliud dicti cubicali ostium, quod dictus Andreas Henderfoun, proditorii facinoris horrore attonitus, ut se inde pròperaret, nuper aperuerat, ingressus, ac dictum quondam Magistrum Alexandrum mortem nobis pertinaciter intentantem cernens, aliquot inflictis ei vulneribus, nobis adjuuantibus, vix e cubiculo expellere potuit; cum dictus quondam Comes, detectam nostro clamore Coniurationem perspicuens, quod frater non potuit propriis ipse manibus perficere, desperato et proditorio animo properat, et strictis duobus quos gesserat ensibus, e via in aream edium suarum, centum aut eo circa stipatus conscis armatis, irruit, ac dicto quondam Magistro Thoma Cranstoun prevnte, dictus quondam Comes, dictique Alexander et Henricus Ruthvene, Hugo Moncreif, Patricius Eviot alique eorum complices, recta ad cubiculum in quo nos antea inclusos noverant prorumpentes, nullo nobis ad respirandum, nullo domesticis ad opitulandum dato spacio, dictum Joannem Ramsay, Dominum Thomam Erskyne et Hugonem Heres medicum, qui soli forte ex nostris accurrerant et aditu cubiculi dictos proditores

prohibere conabantur, fenissime invadunt, ac summo impetu, iis repulsis, cubiculum vi ingressi nosque ad eadem rapidissime querentes, dictos nostros fidelissimos servos, pro nostra salute fortissime dimicantes, multis illatis vulneribus, fere oppresserunt; donec dicto Comite confosso, dictisque quondam Magistro Thoma Cranstoun, Hugone Moncreif et Patricie Eviott, aliquot vulneribus faucis, e cubiculo expulsis, ad aream confugere coacti fuerunt; ibique convocato perditissimorum hominum ingenti multitudine, aditus omnes edium ocluserunt, dispositisque undique presidij, proditorie nos obsidione cinxerunt; et trabem, ut ostia confringerent, adferentes, pulverem etiam tormentarium querebant, quo edes in quibus nos obsidebant ex fundamentis convulsas atque in aerem sublatas subverterent proditorie, nosque et dictos nostros confanguineos et familiares, aliosque fideles subditos nobiscum obseffos, incendio et ruina obrutos proditorie necarent; crucem etiam, et laqueos ac fedissima omnia alia mortis genera, iis omnibus qui nobiscum edes propugnabant seuissime minati: Aliquot etiam e nostris vulneratis ad mortem fere, in obsidionis proditorio proposito perseverauerunt, donec augente fidelium subditorum ad nos concursu conjurati, omnibus contra improbam ipsorum spem succedentibus, paulatim sese subducere coacti sunt: Hincque dicte persone, et earum quelibet, crimen Lesemajestatis contra nos, regalemque nostram auctoritatem et leges commiserunt. IDEOQUE dictus Alexander Ruthvene, Henricus Ruthvene eius frater, Hugo Moncreif et Patricius Eviot, Conspiratores, proditorique executores et celatores facinorum predictorum, ad videndum et audiendum sese et eorum quemlibet respectiue, premissa crimina Lesemajestatis commississe, per nos et trium regni nostri Statuum decretum decerni et declarari; et super predictis et pluribus aliis rebellionibus, transgressionibus et proditoriis criminibus, per ipsos respectiue, contra nos, regnum nostrum et auctoritatem regiam, impie et nefarie perpetratis, dictis die et loco, cum continuatione dierum, proponendis et ostendendis, respondendum ac Juri parendum; et super ipsidem Judicium nostrum et Parliamento nostri secundum leges regni nostri expectandum et subeundum, dictas viz. personas, Conspiratores, perpetratores et celatores criminum predictorum rex^{us} ad videndum et audiendum sese et eorum quemlibet, intuitu premissorum, crimen Proditionis et Lesemajestatis incurrisse, per nos et trium regni nostri Statuum decretum decerni et declarari; et propterea, personas suas penam Proditionis et ultimi supplicii a regni nostri legibus prescriptam subire, ipsorumque omnium bona, mobilia et immobilia, tam terras quam officia, beneficia, aliaque omnia ad eos spectantia, vel ad eos vilo modo pertinere poterunt, nobis confiscari, et pro perpetuo nobiscum in proprietate remanere; posterosque eorum ab honoribus, dignitatibus, officiis, beneficiis, successioneibus, aut vllis bonis, mobilibus vel immobilibus, in regno nostro obtinendis vel possidendis, esse et fore dehinc imperpetuum inhabiles et incapaces: Et ulterius, in premissum respondendum et juri parendum: Intimando supradictis Conspiratoribus et eorum cuilibet respectiue, quod siue dictis die et loco cum continuatione dierum comparuerunt siue non, nos dictusque noster Justiciarius in premissis, justitia mediantem, procedemus et procedet. INSUPER citetis preimptorie, coram testibus, Magistrum Joannem Moncreif Aduocatum, Alexandrum Blair juniorem de Balthyok, Georgium Hay de Nathertowne, Magistrum Petrum Hay, Robertum Grahame de Thornik, Joannem Grahame de Balgowne, Joannem Murray de Arbanie, Andream Hay balliunum de Perth, Alexandrum Peblis, Willielmum Robertson, Gilbertum Richardson, Willielmum Rynd, Davidem Rynd, Joannem Rentowll, Georgium Forrest, Thomam Burrell, Henricum Leyis ibidem, Robertum Chrystie janitorem dicti quondam Comitum, Ludovicum Lennocie Ducem, Joannem Marrie Comitem, Joannem Grahame de Vrchill Dominos Thomam Erskyne, Joannem Ramsay et Hugonem Heres milites, Robertum Galbraith, Robertum Broun, Jacobum Bog, Jacobum Liddell et Joannem Boig in lie *ail-cellar*, ad comparandum coram nobis, dictone nostro Justiciario, dictis die et loco, cum continuatione dierum, ad perhibendum fidele testimonium in causa predicta, sub pena legis; et presentes literas debite executas et indorsatas earundem latori reddatis: Et vos qui presentes exequuti fueritis, sitis ibidem, dictis die et loco, coram nobis seu dicto nostro Justiciario, portantes vobiscum summonitionis vestre testimonium in scriptis, pro premissis, vel ipsos testes. Ad quod faciendum vobis et vestrum cuilibet, coniunctim et diuisim, vicecomitibus nostris in hac parte, nostram committimus potestatem. Datum sub testimonio nostri magni sigilli, Apud

Edinburcht, vigeſimo ſexto die menſis Auguſti, anno domini milleſimo ſexcenteſimo, et regni noſtri Trigeſimo quarto.

Quhilkis eſtatis, all in ane voce, ſſand the ſamin relevant aganis the ſaidis Alexander and Harie Ruthvenis, &c.¹

SENTENCE. This Court of Parliament ſchawis for law, that the ſaidis Alexander Ruthven, Harie Ruthven his brother, ſonnes lauchfull to vniq^{le} Alexander Ruthvene of Freland, Hew Moncreif brother to Williame Moncreif of that Ilk, and Patrik Eviott brother to Colene Eviott of Balhouſſie, committit the crymes of Treaffoun and Leſemajeſtie aganis our ſouerane lord and his authoritie royall, in maner at lenth contenit in the ſaid ſummondis. And thairfoir, decernis and declaris thair perſones to vnderly the panis of Treaffoun and Leſemajeſtie, and laſt puniſchement preſcryvit be the lawis of this realme: And all thair gudis, moveabill and immoveabill, alſweill heretages as offices, benefices and vtheris quhatſumeur pertening to thame, or quhilkis nicht onywayes belang or appertene to thame, to be conſiſcat to his Maieſtie, and to remane with his hienes in propertie for euir: And thair poſteritie to be now and in all tyme cummyng vncapabill and vnahabill to bruk and poſſes, within this realme, ony honouris, digniteis, offices, benefices, ſucceſſiones, or vtheris gudis or geir, moveabill or immoveabill. And this I gif for dome.

Documents Illuſtrative of the Earl of Gowrie's Conſpiracy.

No. I.

DEPOSITIONIS² of the WITNESSES examinat in prefens of the Lordis of Articles, for preving of the ſaidis tua Summondis of Treaffoun.

(1.) THE DUKE OF LENNOX, ſworne and examinat, deponis, That vpone the fyft day of Auguſt laſt bipaſt, this deponar for the tyme being in Falkland, in companie with his Maieſtie, he ſaw Maifter Alexander Ruthvene ſpeikand with his grace, beſyde the ſtabillis, betuix ſex and ſewin in the mornyng: And ſchortlie thaireftir, his Maieſtie paſſing to the Hunting of the buk, and haveing ſlane ane, in the park of Falkland, his hienes ſpak to the deponar, deſyring him to accompanie his Maieſtie to Perth, to ſpeik with the Erle of Gowrie: And incontinent thaireftir, this deponar ſend his ſeruand for ane vther horſe, and for ane ſword, and lap on and followit his grace: And as this deponar ouertuk his grace, Maifter Alexander Ruthvene wes ſpekand with his Maieſtie: And ſchortly eftir the deponaris cummyng to the King, his hienes raid a pairt and ſpak with this deponar, ſaying, ‘ ge can nocht gueſs quhat erand I am rydand for! I am going to gett ane poiſe³ in Perth; and Maifter Alexander Ruthvene hes informit me, that he hes fundin ane man that hes ane pitcher full of cunzeit gold of great fortis.’ And in the mentyme, his hienes inquirit at this deponar, ‘ Off quhat humour he thocht Maifter Alexander Ruthvene to be of?’ Quha answerit, that ‘ he knew nathing of him bot ane honeſt diſcrete gentelman.’ And efter that his hienes had declarit to this deponar, the hail circumſtances of the

¹ As narrated after the former Summons.

² From the Originals, preſerved amongst the Warrants of the Parliament of Scotland, General Register Houſe.

³ A board, or hoarded treasure.

man quha had the said gold, the place quhair it wes fundin, quhair it wes keipit, this deponar answairit, ' I lyk nocht that (schir,) ffor that is nocht lyklic.' And they rydand besyd the brig of Erne, his Majestie tauld to this deponar, that Maister Alexander desyrit him to keip that mater of the pois clofe secrete, and to tak na bodie with him. And than his hienes, baith at that tyme, and thair-estir in Sanct Johnestoun,¹ within the Erle of Gowreis hall, said to this deponar, ' Tak tent quhan I pass with Maister Alexander Ruthvene and follow me.' And as his Majestie wes within ane myle to Perth, estir that Maister Alexander had comeit ane certane space with his hienes, he raid away and gallopit to Perth befor the rest of the cumpany, towardis his brotheris ludgeing; off purpose, as the deponar belevis, to adverteise the Erle of Gowrie of his Majesteis cumming thair: And as his Majestie wes within tua pair of butelangis² to the towne of Perth, the Erle of Gowrie, accompaneit with diuerse persones, all on fute, mett his hienes in the Inche, and saltit him. And immediatlie thairestir, his Majestie, accompanyit with this deponar, the Erle of Mar, Lundoris, Inchaffray, Schir Thomas Erskene, Laird of Vrquhill, James Erskene, Williame Stewart, Schir Hew Heres, Schir Johne Ramsay, Johne Murray, Johne Hammyltoun of the Grange and Johne Grahame of Bagowne, past altogidder in the Erle of Gowries hall, the said Erle of Gowrie and Maister Alexander Ruthvene being baith present with thame; and estir thair entrie, his Majestie cryit for ane drink, quhilk wes lang of cumming: And it wes ane hour nixt efter his first cummyng, befor his Majestie gat his dennar: And the tyme that his Majestie gat his deserte,³ the Erle of Gowrie come to this deponar and to the Erle of Mar and remanent persones foirsaidis, and desyrit thame to dyne; quhilk they did in the hall: And quhan they had neir hand dynit, the Erle of Gowrie⁴ come frome his Majesties chalner⁵ to the hall and callit for wyne, and said that he wes directit frome his Majestie to drink his scoll⁶ to my lord Duik and the rest of the companie, quhilk he did: And immediatlie estir the scoill had passit about, this deponar raise frome tabill, to haue awaittit vpoun his Majestie, conforme to his former direction; and than the Erle of Gowrie said to this deponar, that ' his Majestie wes gane vp quietlie sum quiet erand: ' And syne the said Erle of Gowrie cryit for the key of his zaird,⁷ and passit in company with

¹ Perth. ² Butt-lengths, the length of two pair of butts. ³ The dessert consisted chiefly of strawberries, even at that time a favourite fruit in Scotland. They are often noticed in the Treasurer's books during the preceding century. ⁴ Gowrie had previously dined at half past 12 o'clock, as soon as he heard of the King's having consented to visit Gowrie house.—See *Andro Henderson's Deposition*, &c. ⁵ According to usual etiquette, the King dined apart from the rest of the guests, and was waited upon by his entertainer, though this appears to have been done in an ungracious manner. ⁶ This ancient custom was, in some measure, equivalent to the modern practice of drinking healths. The King's *scoll* was drank by deputy on this occasion, Gowrie, in his Majesty's name, drinking 'to my Lord Duik,' &c. Frequent allusions are made to a similar custom in Shakspeare, &c. ⁷ Garden, orchard and pleasure ground attached to Gowrie's house.

this deponar to the 3aird, accompanyit with Lundoris and Schir Hew Hereis and certane vtheris. And schortlie eftir thair being in the 3aird, Maister Thomas Cranftoun¹ come down to the 3aird, cryand, ‘ The Kingis Majestie is loppin on² and riddin throwche the Inche.’ And then the Erle of Gowrie cryit, ‘ Horffis, horffis!’ And the said Maister Thomas Cranftoun answerit to him, ‘ 3our horfe is in Scone;’ quhilk the Erle of Gowrie maid him nocht to heir,³ bot cryit ay, ‘ Horfe, horfe!’ And the deponar and the Erle of Gowrie cum furth of the 3aird, throw the hall, to the clofe and come to the wtter 3ett;⁴ and this deponar speirit⁵ at the porter, ‘ Gif the King wes furth?’ Quha answerit, that ‘ he wes assurit that his Majestie wes nocht cum forth of the place.’ Than the Erle of Gowrie said, ‘ I am sure he is furth; alwayes⁶ stay, my lord Duik, and I fall gang vp and get your lordschip the veritie and certantie thair of: And the said Erle of Gowrie passit vp, and incontinent come down agane to the cloise, and he affirmit to this deponar, that ‘ the Kingis Majestie wes furth at the bak 3ett and away.’ Quhairvpoun this deponar, the Erle of Gowrie, and Mar and haill company, past furth at the foir3ett of the ludgeing, and stude befor the famin 3ett vpoun the hiegait:⁷ And as they wer standing thair, advyseing quhair to feik the King, incontinent, and in this mentyme, this deponar hard ane voce, and said to the Erle of Mar, ‘ This is the Kingis voce that cryis, be quhair he will.’ And sua they all lukand vp to the ludgeing, they saw his Majestie lukand furth at the window, wantand his hat, his face being reid,⁸ and ane hand gripand his cheik and mouth; and the King cryit, ‘ I am murtherit! Treassoun! My Lord of Mar, help! help!’ And incontinent this deponar, the Erle of Mar and thair cumpany, ran vp the stair to the Galry-chalmer, quhair his Majestie wes, to haue relevit him: And as they past vpe, they fand the dure of the chalmer fast; and seing ane ledder standing besyd, they raschit at the dure with the ledder, and the stoippis of the ledder brak: And syne they send for hameris; and nochtwithstanding lang forceing with hammeris, they gat nocht entrie at the said chalmer, quhill⁹ eftir the Erle of Gowrie and his brother wes baith flane. That Robie Broun past about be the bak dur and come to his Maiestie and assurit his hienes, that it wes my lord Duik and the Erle of Mar that wes strikand vp the chalmer dure; and than the hammer wes gevin throw the hoill of the dure of the chalmer, and they within brak the durris and gaif thame entrie: And at thair first entrie, they saw the Erle of Gowrie lyand dead in the chalmer, Maister Alexander Ruthvene being slayne and takin down the stair befor thair entrie. And at thair first entrie within the said chalmer, quhair the

¹ See his Trial, Aug. 22, 1600.² Mounted, leapt on.³ Affected, or pretended not to

hear.

⁴ Outer gate.⁵ Enquired, asked.⁶ Nevertheless, at least.⁷ The High-

gate, or High Street of Perth.

⁸ Red, inflamed.⁹ Until.

Kingis Majestie wes, the deponar saw findrie halbertis and swordis striking vnder the dure of the chalmer and fydis thairof, be resson the samin wes na cloise dure ; and knew nane of the strikeris in, except Alexander Ruthven, ane of the defendaris, quha desyrit to speik with this deponar throwch the dure, and sperit at him, ' For Godis saik, my lord, tell me how my lord of Gowrie dois ? ' To quhome this deponar ansuerit, ' He is weill.' And the said deponar bad the said Alexander to ' gang his away, and that he wes ane foill ; and that he wald gett litill thankis for that labour.' And in this mentyme, as they, continewand in striking with halbertis vnder the dure, Mekill Johne Murry,¹ seruand to Tullibardin, wes strikin throw the leg. And howfome the said Alexander Ruthven had hard the said lord Duik speik, he and his haill complices past frome the foirsaid dure, and maid na mair trubling thaireftir thairat ; and past down to the cloise and stude thair : And saw nane of the remanent defendaris present at the doing of the violent turnis that day, except be report, bot the said Alexander Ruthven : Bot sayis, that he saw Hew Moncreif, Harie and Alexander Ruthvenis, and Patrik Eviott with the Erle of Gowrie, at the Kingis denner that day, and ofbefoir. And thaireftir, loukand ouer the chalmer window, he saw George Craingingelt and Alexander Ruthvene, and diuerse vtheris of the Erle of Gowreis seruandis, quhome this deponar knew nocht, standand with armes, within the close : And also, saw vtheris persones carying ane gest² frome the towne, to the close of the Erll of Gowries ludgeing. And declaris, that thair aboad findrie persones within the said close, and in the Hie-streit, befor the said Erlis ludgeing, cryand and makand tumult, be the space of tua houris and mair, nixt eftir the death of the said Erle of Gowrie and his brother.

(Sic subscribitur)

LENNOX.

(2.) THE ERLE OF MAR sworne and examinat, deponis conforme to the lord Duk of Lennox Deposition, in all thingis substantiall ; except, his lordschip saw nocht Mr Alexander Ruthven in Falkland, quhill about ten houris, the day libellit ; schortlie befor the slaying of [the] buke : And also, ouertuk nocht his Majestie that day, quhill his Majestie wes neir the Brig of Erne : And that eftir thair dennar, my Lord of Mar passit nocht to the zaird, in company with the Erle of Gowrie, bot passit to the chalmer quhair the king dynnit ; and saw na-thing of the gest.³

(3.) ANDRO HENDERSOUN, chalmerlan of Scone, sworne, deponis, That he is of the age of threttie aucht yeiris. Declairis, that vpoun Monunday at nicht, the fourt day of August lastbipast, this deponar being, eftir supper, in companie with the Erle of Gowrie (and) Maister Alexander Ruthvene, within my lordis

¹ John Murray of Arbany. ² Joist, beam. ³ The using of the joist or beam to break open the outer gate,—not the ' gest,' ' gist,' or action, according to the old English acceptation of the word.

awin chalmer, the Erle of Gowrie inquirit at this deponar, quhat he had to do the morne? To quhome this deponar anfuerit, that he had to do, to ryd to Ruthven to speik with the tennentis: Than the Erle of Gowrie anfuerit, 'Stay that jorney, 3e man¹ ryd to Falkland, in company with my brother Maister Alexander, and tak Andro Ruthvene with 3ow: And that 3e be redie to ryde, be four houris in the morning: And haift 3ow bak with anfuer, as my brother directis 3ow, be wrytt or otherwayes: And lett Andro Ruthven remane with my brother.' And the morne, eftir four houris in the morning, they raid all thrie togidder to Falkland; and cummand to Falkland, they lichtit at Johne Balfouris hous: And feing that Colonel Edmond wes thair, they ludgeit in ane Lawes houe: And the Maister fend this deponar, about sewin houris in the morning, to fie quhat the Kingis Maiestie wes doand: And as he wes within the Palice, he saw the Kingis Maiestie cummand furth mid-clofe, butit.² And than he returnit bak agane to the Maister, and said to him, 'Haift 3ow, the Kingis Maiestie is cummand furthe.' And incontinent the Maister followit his Maiestie and spak with his Maiestie, foirament the equirie:³ And the King layit his hand on his schulder and clappit him; quhair they spak togidder be the space of ane quarter of ane hour. And thaireftir, the Maister directit this deponar, to 'ryde to Perth, in haift, as he luiffit the Lord Gowreis honour and his; and aduertefe his lordschip, that his Maiestie will be thair, with ane few number, incontinent; and cause mak his denner reddie.' Than this deponar anfuerit, 'Sall I ryd presentlie?' The Maister anfuerit, 'Na, bot stay a quhill, and follow the King and me, quhill I speik with his Maiestie agane.' And as his Maiestie wes rydand throw the fop of the park dyk, the Maister spak his Maiestie: And immediatlie thaireftir, the Maister bad this deponar to 'pas to Sanct Johneftoun, with all possibill diligence,' according to his former directionn. And at this deponaris cummyng to Perth, quhilk wes schortlie eftir ten houris in the morning, he enterit in the lord of Gowreis chalmer, quhair he saw his lord speik with George Hay and Maister Petir Hay: And howfome my lord of Gowrie saw this deponar, he come asyd to this deponar, and inquirit, secreitlie, 'Quhat word he had brocht frome his brother? and gif he had brocht ane letter?' This deponar anfuerit, that 'he had brocht na letter.' 'Quhat anfuer' (than said he) 'haif ye to me?' This deponar anfuerit, that 'the Maister, his brother, bad tell his lordschip, that the Kingis Maiestie wald be thair incontinent; and bad haift his denner.' Than the Erle desyrit this deponar to follow his lordschip to the Cabinat, and sperit at him 'how his Maiestie had tane with his brother?' He anfuerit, that 'he wes weill tane with: And quhan he did his courtesie, the King layd his hand vpoun his schulder.' The Erle sperit, 'Quhat number of perfoones

¹ Must.

² In boots, prepared for riding.

³ Equerry, stables.

wes with the King at the hunting ?' Quha anfuerit that ' he knew nocht weill ; bot thair wes findrie of his awin with him, and sum Inglifinen.' And than the Erle fperit, ' Quhat nobillmen wes with him ?' He anfuerit, ' Nane ; bot my lord Duik.' And thaireftir, this deponar paft to his awin houfe, in the towne ; and tuk aff his buttis, and returnit to the Erle within ane hour. And howfone the Erle faw him in his chalmre, he callit vpoun this deponar, and bad him ' put on his fcrete and plate fleiffis.' The deponar inquit, ' To quhat effect ?' The Erle anfuerit, ' I haue ane Heland-man to tak, in the Scho-gait.' And than this deponar paftit to his awin houfe, and put on his fcreitt and plait fleiffis, come bak agane to the Erle of Gowreis houfe : And about half hour to ane, the Erle command this deponar, ' Tak vp my dennar.' And this deponar paftit and tuk vp the firft fervice, be reffone George Craingelt¹ was feik. And incontinent, the faid Erle paftit to his dennar, accompanyit with Maifter Johne Moncreif laird of Pitcreif, Mr James Drummond, Alexander Peblis barroun of Findowie : And fchortlie eftir the firft fervice wes fett down, my lord sittand at the tabill with the foirfaid company, Andro Ruthven come in frome the Maifter, and roundit to the Erle ; bot hard nocht quhat he faid. And fchortlie thaireftir, this deponar pafting down, to tak vp the fecond fervice, Maifter Alexander Ruthven and Williame Blair come in to the hall, my lord sittand at his dennar : And howfone my lord faw thame, he and his haill companie raife frome the table. And than, this deponar, herand my lord on fute, bade this deponar fend for his fleill bonat and gantilat, beleevand that my lord wes going to tak the faid Heland-man : And as the deponar perfavit my lord paftand to the Inche, and nocht to the Scho-gait, he fend hame his fleillbonat, and caft his gantilat in the pantrie : And thaireftir followit the Erle to the Inche, quhair he faw the faid Erle meitt his Maieftie, the Duik, and the Erle of Mar, and come in altogidder to the Erlis houfe. And eftir his Maieftie had cum to the Erlis ludgeing, the Maifter of Ruthven fperit at this deponar, ' Quhair the key of the Galry chalmre wes ?' Quha anfuerit, that he handlit nocht the faid key fen the Erle come in Scotland. Than the Maifter bad this deponar fpeik to Maifter Williame Rynd, to gif to him the faid key. And the Maifter, paftand vp towardis the galry, Mr Williame Rynd followit him, and gaif to him the faid key. And thaireftir, immediatlie eftir his Maieftieis dounfitting to his dennar, Maifter Thomas Cranftoun come to this deponar, and bad him ' gang to the Erle of Gowrie :' Quhilk this deponar did. And the Erle of Gowrie, in the vtter chalmre, quhair the King dynit, fpak to this deponar fcreittlie, and bad him pas vp to the galry to his brother. Sua he paftand vp, and the Erle followis him : And they beand all thrie togidder, in the galry chalmre, quhair he had the key fra Maifter Williame Rynd ; the Erle

¹ Craingelt seems to have been Master of the Household to the Earl of Gowrie.

said to this deponar, 'Tary still with my brother, and do ony thing he biddis 3ow.' Than this deponar turnit to the Maister, and sperit, 'Quhat will 3e do with me, schir?' Than the Maister spak to my lord, 'Lett Andro Henryfoun gang in to the round of the chahner, and I will loik him in, and tak the key with me.' Quhair this deponar abaid half an hour or thairby, lokkit his allane, haveand his secrete, plate flewis, sword and quhinger with him, and wantand his fleill bonnat. And all this tyme, this deponar, fearand sum ewill to be done, satt vpoun his kneis and prayit to God. And about the end of the half hour, Maister Alexander oppenis the dure of the round, and enterit first within the samin, haveand the Kingis Maiestie be the arme, and puttis on his hatt on his heid, drawes furth this Andro Henderfoun deponaris quhinger, and sayis to the King, haveand the drawin quhinger in his hand, 'Schir, 3e man be my prifoner! Remember on my fatheris dead!¹ And as he held the quhinger to his Maieftieis breift, this deponar threw² the samyn furth of Maister Alexanderis handis. And the tyme that the Maister held the quhinger to his Maieftieis breift, the King wes beginnand to speik, the Maister said, 'Hald 3our towng, schir, or be Chryst 3e fall dee.' Than his Maieftie anfuert, 'Maister Alexander, ye and I wes verie great³ to-gidder: And as tuicheing your fatheris deid, man,⁴ I was bot ane minor; my Counfall nicht haue done ony thing they pleiffit: And forder, man, albeit 3e bereve me of my lyfe, 3e will nocht be King of Scotland, for I haue baith sonnes and dochteris: And thair is men [in] this towne, and freindis, that will nocht leiff it vnrevangeit.' Then Mr Alexander anfuert, swerand with ane great aith, That 'it was nather his lyfe nor blude that he cravit.' And the King said, 'Quhat rakis,⁵ albeit 3e tak of your hat?' And then Maister Alexander tuk af his hatt. And the King said, 'Quhat is it 3e crave, man, and⁶ 3e crave nocht my lyfe?'⁷ Quba anfuert, 'Schir, it is bot ane promeis.' The King anfuert, 'Quhat promeis?' The said Maister Alexander anfuert, 'Schir, my lord my brother will tell 3ow.' The King said, 'Fetche hither 3our brother.' And syne the said Maister Alexander said to the King, 'Schir, 3e will nocht cry, nor oppin the window, quhill I cum agane?' And the King promeffit sua to do. Then Maister Alexander passit furth and loikkit the dure of the round; and passit

¹ Death. See a succinet and able account of the Raid of Ruthven and Gowrie Conspiracy in Constable's Miscellany, vol. xliii., by John Parker Lawson, M.A., p. 223 to the end. ² Wrenched,

twisted by violence; the past tense of the verb *to throw*. ³ On very familiar terms. ⁴ A familiar and homely phrase used in Scotland, rather expressive, at least in this instance, of a desire to

soothe one who is unreasonable, than as indicating any mark of contempt or hauteur, as the mere English reader might naturally imagine. It seems equivalent to 'my lad,' or 'my good fellow.' ⁵ Recks.

A reproof for appearing covered in his presence; which shows much greater firmness and presence of mind than could have been expected, even from the most resolute mind, under such circumstances.

⁶ If. ⁷ The King, from the outset of this hazardous parley, assumed very high ground; and in no instance does he seem to have lost his presence of mind and perfect self-possession. See note to Sir John Ramsay's Deposition, No. 7, and the whole Narrative and Examinations.

nocht frome the dure, as he beleves.¹ In the mentyme, the King enterit in conference with this deponar, ‘How cam ze in heir, man?’ And this deponar answerit, ‘As God leves, I am schott in heir lyk as ane dog.’ His Maieftie answerit ‘Will my lord of Gowrie do me ony ewill, man?’ This deponar answerit, ‘I wou to God, schir, I fall die first.’ And than the King bad this deponar ‘oppin the window:’ And he oppinit the window that luikit to the Spey tour. The King answerit, ‘Fy! the wrong window, man.’ And thaireftir this deponar, passing to the vther window, narrest his Maieftie, to oppin the samin, befor he gat to the window, Maister Alexander oppinit the dure and come in agane, and said to his Maieftie, ‘Be God, schir, thair is na remede!’ And than he leippis to the King, and gatt him be baith the handis, haveand ane gartane in his handis. Then the King answerit, ‘I am ane frie Prince, man, I will nocht be bundin.’ Sua his Maieftie castis loufe his left hand from Maister Alexander; and at that samin time, this deponar drawes away the gartane frome Maister Alexander; and his Maieftie leippis frie frome the said Maister Alexander; and the said Mr Alexander followes his Maieftie, and with his leaft hand about his Maieftie’s craig² puttis his richt neiff³ in his Maieftie’s mouth. Sua his Maieftie, werfland⁴ to be quit of him, this deponar puttis his hand out of his Maieftie’s mouth: And thaireftir, the deponar pat his left hand over his Maieftie’s leaft schulder, and pullit vp the brod of the windo, quhairvnto the said Maister Alexander had thruſchit⁵ his Maieftie’s heid and schulderis; and with the force of the drawing vp of the window, it preiſſis his Maieftie’s body about his rycht syd to the window; at the quhilk tyme, his Maieftie cryis furth, ‘Treaſſoun! Treaſſoun!’ Sua the Maister said to this deponar, ‘Is thair na help with thee? Woe worth thee, thow will caus ws all die.’ Sua trymling,⁶ the Maister pat his hand on the gaird of his awin ſworde; and incontinent the Kingis Maieftie pat his hand on the Maisteris handis, and stayit him frome drawing of his ſworde: And this wayes, they baith being glaſpit togidder, cummis furth of the cabinat to the chalmer; And in the mentyme, this deponar threw⁷ about the key, than ſtanding in the dure of the heid of the turnepyk, quhilk enterit to the chalmer, and oppinit the dure thair of, to eſchew him ſelf, and to lett his Maieftie’s ſervandis in: And howſone he oppinit the dure, Johne Ramſay cam in at the ſamin dure,

¹ This circumstance is elsewhere stated. Henderson infers that he did not leave the back of the door, either from his not hearing his retiring footsteps, or from his too precipitate return; which last, alone, would show he had had no conference, on so momentous an occasion. The fact seems to be, that Ruthven was completely abashed by the dignified and collected demeanour of the King; and having become quite unnerved by the desperate situation in which he now felt himself placed, he availed himself of the King’s proposal to call for Gowry, to retire and ‘screw his courage to the sticking point.’ Appalled by the awful circumstances of his Treason, and conceiving that it was now too late to retrace his steps, he seems to have stifled every feeling of reason and religion, and desperately to have rushed forward to the conclusion of his conspiracy, with headlong and insane fury.

³ Fist.

⁴ Wrestling, struggling.

⁵ Forcibly thrust.

⁶ Trembling with emotion, violent passion, and exertion.

⁷ Thraued, turned.

with ane halk in his hand, and passit to the Kingis Maiestie and said about him and drew his quhinger: And as he saw him myntane with the quhinger, this deponar passit furth at the said dure, and passit down the turnpyik.

(Sic subscribitur) A. HENDERSOUN.

AND as the deponar passit throw the cloise, and come to the foiryeitt, the deponar saw the Erle of Gowrie standing befor the yett, accompanyit with diuerse persones, of quhome he rememberis nane; bot rememberis weil, that the Erle had this deponaris knaipfehall¹ on his heid, and tua swordis drawin in his hand. And immediatlie thaireftir, the deponar passit to his awin ludgeing, quhair he remanit quhill the King passit furth of the towne: And than the deponar passit to the Brig, and walkit vp and down be the space of ane hour, and returnit nocht agane to the Erlis ludgeing that nicht. And the tymes of his entrie to his house that nicht, this deponaris wyf inquirit at this deponar, 'Quhat truble wes within the place?' To quhome he answerit, 'Weill is me, of ane thing, that gif I had nocht bene thair, the King had bene twyse stikit² this nicht! Bot wais me,³ for the thing that is fallen out!' And this deponar, being demandit be Maister Johne Moncreif, eftir his returning from Falkland, 'Quhair haue ye bene with your boittis on?' Answerit, 'He had bene tua or thrie mylis beyond Erne.' And durst nocht tell him the veritie, be reason the Erle of Gowrie had dischargit him to tell the erand he send him, to ony bodie. And forder, this deponar declaris, that quhan he saw the Erle of Gowrie standing with his drawin swordis, befor the yette, this deponar spak nocht to the Erle, nather yit the Erle to him at that tyme; bot he passit to his awin house.

(Sic subscribitur) ANDRO HENDERSOUN.⁴

¹ Steel-bonnet. ² Stabbed. ³ Woe is me! ⁴ It may here be remarked, that the pusillanimous conduct of Andrew Henderson tended, both at the time, and even now has been considered as strongly fortifying the idea of a plot on the part of the King to put down the family of Gowrie, and to seize upon their estates. But it is obvious that the King would not have chosen so 'weak a vessel' to be the means of effecting so daring a deed. This blockhead seems to have been utterly paralyzed by the novel and difficult situation in which he was placed. When locked up in 'the round of the chalmers,' or turret, by Mr Alexander Ruthven, where the scene of action was to take place, he first craved direction from above, 'and all this tyme (about half an hour) satt vpoun his kneis, and prayit to God.' Notwithstanding, he was little better than a passive spectator of the struggle; and after 'eschewing him self,' by which means he 'lett his Maiestie seruandis in,' he passed his ill-fated master, Gowrie, without uttering a word, and 'passit to his awin ludgeing, quhair he remanit quhill the King passit furth of the towne;' and then, in a '*quandary*,' saunters about on 'the brig, be the space of ane hour!' This was not a man to be intrusted with playing a principal part in so hazardous a game. Nor would the King, constitutionally feeble, and unfit by nature for violent muscular exertion, have been so insane as to risk his person, unarmed, and habited merely in a slight hunting suit, without even a dagger or weapon of any sort, to contend with an athletic young man, such as Ruthven was, perfectly skilled in the art of self-defence, armed with a sword and 'pyne-doublet,' or secret coat of mail—and this conflict, too, in a remote tower, out of the probable reach of aid from any others who had been intrusted with this plot. This circumstance, by itself, would go far to disprove the very idea of any Conspiracy on the part of the King against Gowrie and his brother. But when one takes into consideration the total ignorance of the whole of the hunting party, the King's sole attendants, who had merely time to send for fresh horses and their side-arms, when they, on the hunting-field, heard, for the first time, of the proposed visit to Perth, such a proposition seems the height of absurdity.

(4.) THE ABBOTT OF INCHECHAFFRAY, fworne and examinat, deponis, That vpoun the fyft day of Auguft laftbipaft, this deponar, being in Falkland, about fevin houris in the mornung, he mett Maifter Alexander Ruthvene, accompanyit with Andro Ruthvene; and at that tyme, onlie falutit the faid Maifter Alexander, without ony conference forther at that tyme: And at that tyme, he faw the faid Maifter Alexander enter in conference with his Maieftie, vpoune the grene, betuix the ftabillis and the parke; quhilk conference, induring for the fpace of ane quarter of ane hour: And the faid Maifter Alexander accompanyit his Maieftie quhill they come to the medow. And at his returning frome his Maieftie, this deponar defyrit Maifter Alexander to difchone¹ with him, be reffoun his awin culd nocht be fafone be preparit. To quhome Mr Alexander anfuerit, ‘ He nicht nocht tarie, be reffone his Maieftie had commandit him to await vpoun him.’ And as this deponar paffit to Falkland, levand Mr Alexander behind him, he mett his horfe with his man cummand frome Falkland to him. And then this deponar, eftir he had difchonit in Falkland, he tuik his jorney the hieway to Inchechaffray: And the deponar, being bot ane mile a north Strameglo, his Maieftie, accompanyit with my lord Duik, Lundoris, the Laird of Vrquhill, John Hamnyltoun of the Grange, Finlaw Tailzeour and Maifter Alexander Ruthven cam by this deponar, rydand the hieway to Perth: Than incontinent this deponar horffit and accompanyit his Maieftie to Perth, quhair he faw the Erle of Gowrie meitt his Maieftie in the Inche; and paffit in company with his Maieftie and his Nobill men and feruandis to the Erle of Gowreis ludgeing, quhair they dlynit altogidder. And eftir dennar, this deponar being in the chalmer at the north end of the hall, word paffit throw the hall, that his Maieftie was paffit away and riddin towardis Falkland: And than this deponar, in company with the Lord of Mar, and remanent present for the tyme, paffit to the cloife, and frome that to the Hie-ftreit: And the Erle of Gowrie being present with thame, defyrit thame to ftay, quhill he returnit, and advertesit thame of the veritie thair of: And incontinent the Erle of Gowrie paffit vp the ftair, and returnit bak and certefeit the deponar and his collegis of his Maiefties depairture. Than the lord Duik, this deponar, and remanent, cryit for thair horfis, to follow the King. Than, as they wer ftandand vpoun the Hie-ftreit, they hard ane cry and ane voce: And the Duik firft declarit, ‘ I am affiurit yon is his Maiefties voce, be quhair he will him felf.’ And immediatlie thaireftir, this deponar faw his Maieftie loukand furth at ane windo of the round, wantand his hat, and his face reid, cryand ‘ Fy! Help, my lord of Mar! Treffoun! Treaffoun! I am murderit!’ And at that famin instant, be his judgement, his Maieftie wes pullit, perforce, in at the famyn window. And incontinent thaireftir, this deponar paffit in haift

¹ To breakfast. Old Fr. *desjeuner*.

vpe with the Erle of Mar and my lord Duik, to the chalmer within the galry ; quhair he saw, hard and did, in all thingis conforme to the Dukis depositioun.

(Sic subscribitur)

INCHEAFFRAY.

(5.) THE ABBOTT OF LUNDORIS, sworne and examinat, deponis conforme to the Lord Duik of Lennox, in all thingis : *Addendo*, that eftir dennar, quhan word wes of his Maiesteis depairtour towardis Falkland, and that they had altogidder cum down to the porter, and had inquirit at him, ‘ Gif the Kingis Maieftie wes gane furth ? ’ The porter anfuerit, ‘ He wes nocht passit furth : ’ And the Erle of Gowrie affirmit that ‘ He wes passit furth at the bak zett : ’ And the porter said to the Erle of Gowrie, ‘ That can nocht be, my lord, becaus I haue the key of the bak zett.’ And eftir that his Maieftie had cryit furth of the windo of the round, ‘ Treassoun ! Treassoun ! ’ &c. this deponar saw James Erskeyne incontinent lay handis vpoun the Erle of Gowrie, vpoun the Hie-streit. And immediatlie Schir Thomas Erskeyne grippit the Erle of Gowrie, ‘ Fy, Tratour, this is thy deid, thou fall die ! ’ Then the Erle of Gowrie anfuerit, ‘ I ken na thing in the mater.’ Than, instantlie, the Erle of Gowreis men ruiggit the said Schir Thomas Erskeyne and James Erskeyne fra the Erle of Gowrie ; quha incontinent ran the space of half ane pair of butlandis frome thame, towardis Glenvrquhis house, and drew furth his tua swordis,¹ and cryit, ‘ I will ather be at my awin house, or die be the gait.’ And incontinent thaireftir, the said Erle, accompanyit with threttie perfones or thairby, passit within the said place, quhair his Maieftie wes for the tyme : And schortlie thaireftir, the deponar, as apperit to him, saw ane multitude of people caryand ane jest towardis the place.

(Sic subscribitur)

LUNDORIS.

(6.) SCHIR THOMAS ERSKEYNE, of the age of threttie-sex zeiris, Sworne, deponis conforme to the Lord Incheffray and Lord of Lundoris : *Addendo*, that immediatlie eftir this deponar hard his Maieftie cry furth of the windo of the round, ‘ Fy ! Help ! I am betrefit ! They ar mureffing me ! ’ he ran with diligence towardis the place, to haue helpit his Maieftie : And befor his entrie, feing the Erle of Gowrie, this deponar and his brother grippit him be the nek, and said to him, ‘ Tratour, this is thy deid ! ’ Quhilk Erle anfuerit, ‘ Quhat is the mater ? I ken nathing ! ’ Immediatlie the Erlis seruandis seuerat him frome this deponar and his brother ; and than this deponar enterand within the close, he forgadderit with Schir Hew Hereis, quha demandit of the deponar, ‘ Quhat the mater menit ? ’ And in the mentyme, the deponar hard Schir Johnne Ramfay cryand out at the turnepyk heid, ‘ Fy ! Schir Thomas, cum vp this turnepyk,

¹ It appears that these swords were, according to a custom then prevalent in Italy, worn in one scabbard, and served for double defence, as the sword and dagger. The Earl was singularly skilled in the use of arms.

ewin to the heid.' And as this deponer had passit vp fyve stoppis of the turne-pyke, he feis and meittis with Mr Alexander Ruthvene, bludit in tua partis of his bodie, viz. in his face and in his neck : And incontinent this deponar cryis to Schir Hew Heres and vtheris that wer with him, ' Fy ! This is the Tratour ! Strik him ! ' And incontinent he wes strikin be thame and fell : And as he wes fallin, he turnit his face and cryit, ' Allace ! I had na wyte of it ! ' This deponar being standing abone him in the turnepyk. Thaireftir, this deponer past to the heid of the turnepyk, and enterit within the chalmer at the end of the galry, quhair the king and Schir Johne Ramsay wes thair allane present : And at the first meting, this deponar said to his Maiestie, ' I thocht your Maiestie wald haue concredited mair to me, nor¹ to haue commandit me to await your Maiestie at the dure, gif ze thocht it nocht meit to haue tane me with you.' Quhairvpoun his Maiestie answert to the deponer, ' Allace ! the Tratour dissavit me in that, as he did in the leave ;² ffor I commandit him expresse to bring you to me : Quhilk he promesit to me to do, and returnit bak as I thocht to fetch you ; bot he did nathing bot steikit the dure.'³ Schortlie thaireftir, Schir Hew Heris followit this deponar in to the chalmer, and George Wilsoun servant to James Erskyne : And immediatlie thaireftir Maister Thomas Cranstoun, with his sword drawin in his hand, enterit within the said chalmer ; and the Erle of Gowrie followit him within the samin chalmer, with ane drawin sworde in euerie ane of his handis, and ane knapscale⁴ on his heid ; quha struck at this deponar and his collegis, ane certane space. Lykas, they defendit thame and struk agane : And that samyn tyme, the said deponar wes hurte in the richt hand, be Maister Thomas Cranstoun. And this deponar hard my Lord of Gowrie speik sum wordis at his entrie, bot vnderstandis thame nocht. And last, Schir Johne Ramsay gaif the Erle of Gowrie ane dead straik : And than the Erle leanit him to his sword ; and the deponar saw ane man hald him vpe, quhome he knew nocht : And howfome the Erle fell to the ground, Maister Thomas Cranstoun, and the remanent quha accompanyit him, depairtit, and passit down the turnepyk. And the deponar rememberis, that at that tyme, thair wes ma perones in the chalmer with the Erle of Gowrie, by⁵ Mr Thomas Cranstoun ; bot knew nane of thame ; except he believes, that ane blak man⁶ that wes thair in company within the chalmer, wes Hew Moncreif, brother to the Laird of Moncreif ; bot the deponar knawes nocht weil, quhidder or nocht it wes Hew Moncreif.

(Sic subscribitur)

SR THOMAS ERSKYNE.

(7.) SCHIR JOHNE RAMSAY, of the age of Tuentie thrie zeiris or thairby, Sworne, deponis, That immediatlie eftir he had dynit, the day libellit, in the

¹ Than.

² Leave, the rest.

³ Shut the door.

⁴ A ' steel bonnet,' or defence for the

head. ⁵ Besides, *forbye*.

⁶ Dark-complexioned.

Erle of Gowreis houe, he tuk his Maieftie's hawk¹ fra Johne Murray, to the effect the said Johne nicht haue dynit: And the deponer, miſſing his Maieftie, and forgaddering² with the Laird of Pittinereif in the Erle of Gowreis hall; and demanding of Pittinereif, 'Quhair his Maieftie wes?' The ſaid Laird firſt convoyit the deponer to the chalmier quhair his Maieftie dynit; thaireftir to the zaird, hoiping that his Maieftie had bene thair: And miſſing his Maieftie in the zaird, the ſaid Laird convoyit the deponer vp to ane fair gallerie, quhair this deponer wes nevir befor; quhair, haveing remanit ane certane ſpace, behal ding the gallerie, they come baith down to the cloiſe, quhair they mett with Maifter Thomas Cranftoun in the middis of the cloſe, quha ſaid to thame, that 'His Maieftie wes away vpoun horſbak at the Inche.' Quhairvpoun this deponer and Pittinereif ſunderit;³ and the deponer paſſit furth of the zett to his ſtable, to haue gottin his horſe: And being ſtanding at the ſtable dure, he hard his Maieftie cry, knew his hienes voce, bot vnderſtude nocht quhat he ſpak: Quhairvpone he immediatlie cummis within the cloſe, and finding ane turnpyk dure oppine, he enteris within the ſamin, and rymis vpe the turnpyk, quhill he cummis to the dure vpoun the heid thair of: And heiring ane ſtrugling and dyn of mennis feitt, he ran with his hail force at the dure of the Turnepyke heid, quhill he enteris to the chalmier at the end of the gallerie, the deponer haveing in the mentyme his hawk on his hand: And haveing dung⁴ vpe the dure, he ſeis his Maieftie and Mr Alexander Ruthvene in vtheris armes, ſtryveing and worſlying⁵ togidder, his Maieftie haveing Maifter Alexanderis heid vnder his arme, and Maifter Alexander being almaiſt on his kneis, had his hand vpoun his Maieſteis face and mouth: And his Maieftie, ſeing the deponer, ſaid, 'Fy! Strik him laich, becaus he hes ane pyne dowlit⁶ vpoun him!' Quhairvpoun the deponer kaiſt the hawk fra him, and drew his quhinger, quharwith he ſtrak the ſaid Maifter Alexander: And immediatlie eftir he was ſtrukin, his Maieftie ſchoitt⁷ him down the ſtair, quhairat this deponer had enterit. Thaireftir this deponer addreſſis him to ane window, and lukand furth thairat, and ſeand Schir Thomas Erſkeyne, the deponer cryit, 'Schir Thomas, cum vp this turnepyke, ewin to the heid.' In this mentyme, his Maieftie pat his fute vpoun the hawk leiſche, and held hir ane lang tyme, quhill the deponer come and tuk hir vp agane:⁸ And than Schir Thomas

¹ This hawk is reported to have been preſented to the King this day, by John Murray of Arknay, commonly called 'Meikle John Murray.' ² Meeting. ³ Separated. ⁴ Struck, forced.

⁵ Wrestling, ſtruggling. ⁶ Secret doublet, or chain ſhirt of mail. ⁷ Forcebly thruſt, threw, or pushed.

⁸ In the whole of this prolonged and deſperate ſtruggle, the King, although unarmed and defenceleſs, (being habited in a green hunting-dreſs, with a hunting-horn ſuſpended round his neck,) exhibited extraordinary preſence of mind, and no ſmall ſhare of perſonal bravery, proweſs and dexterity, in parrying off the attacks of an athletic young man, bent upon ſo deadly an errand, and provided with 'a ſecret' or 'pyne doublet,' capable of turning the ordinary thruſt of a ſword or dagger, and beſides furniſhed with neceſſary weapons. It has become fashionable to ridicule the puſillanimity of

Erfkein enteris. And in the rest, deponis conforme to Schir Thomas Erfkeyne, in all pointis. And forder sayis, that quhan this deponar enterit first within the chalmer, he saw ane man standing behind his Maiesteis bak, quhome he nawayes knew; nor rememberis nocht quhat apperrelling he had on; bot eftir that this deponar had strukin Maister Alexander, he saw that man na mair.

(Sic subscribitur)

SR JOHNE RAMSAY.

(8.) JOHNE GRAHAME of Vrqhill, sworne and examinat, deponis conforme to the Lord Duik of Lennox and Erle of Mar, in all thingis; *Reddens eandem caussum scientie: Addendo*, that this deponer, the tyme that he wes at dennar in the hall, with my lord Duik and the Erle of Mar, he saw the King and Maister Alexander Ruthven pass throw the hall, vp the turnepyke, towardis the galeric: And as this deponer, Johne Hammyltoun and vtheris wer followand, Maister Alexander cryit bak, ‘Gentlemen, stay, for sua it is his hienes will.’

(9.) JOHNE GRAHAME of Balgowne, of the age of fyftie yeiris or thairby, mareit, deponis conforme to the lord Duik, in all thingis; *Addendo*, that this deponer, the day libellit, efter the death of the Erle of Gowrie and his brother, and herand his Maiestie reporte that Maister Alexander pressit to haue bund his hienes handis with ane gartane, this deponer fand ane gartane at the cheik of the round dure, among the bent;¹ and immediatlie thaireftir, this deponer presentit the famin gartane to his hienes, and at the sicht thairof, his Maiestie said, that ‘the famin wes the gartane, quhairwith Maister Alexander pressit to haue bound his handis.’ And then Schir Thomas Erfkeyne grippit to the famin gartane, and said, that ‘He wald keip it.’ Quhilk he hes yit in keiping.

(Sic subscribitur)

J. GRAHAME of Balgowne.

(10.) I MAISTER JOHNE MONCREIF deponis, as eftir followes, to wit. That day, I wes still present with my lord of Gowrie, vnto the tyme I hard his

James VI., but it is hard to conceive how far the bravest man, if unarmed, and placed in similar circumstances, could have surpassed him in courage, or have displayed more coolness, address and self-possession, than did the King, throughout all this perilous transaction. Although constitutionally and habitually timid, and being destitute of the advantage of a healthy or robust frame; these infirmities being likewise aggravated, in no small degree, by the broils and conspiracies in which he found himself incessantly involved, James on many occasions showed, when personally placed in difficult emergencies, that he was not unworthy of the royal blood from which he was descended.

¹ Before carpets were generally used in this country and in England, it was customary, in lieu of this modern luxury, to strew rushes, or withered ‘*bent*,’ (a sort of coarse grass, ‘*hair grass*,’ growing on muir-lands, sandy grounds, &c.) on the floors of halls, &c. On the arrival of guests of distinction, it was a mark of civility and polite attention to have the floors strewed with fresh bent or rushes. The older English writers, especially the Dramatists and Satirists, inveigh loudly against the filthy odours generated by the stale and rancid straw or rushes on the floors of English halls; owing to the frugality or slovenliness of the landlord. Carpets are, to this day, rarely used in many places of the continent of Europe, to the no small annoyance of British travellers; and, perhaps from this cause, (the recent introduction of carpets into general use,) it is reproachfully remarked, of ‘the most polite nation in Europe,’ that a Parisian spits without remorse on the finest drawing-room carpet, and this too in presence of ladies.

Maieftie cry, ‘ Treaffoun !’ And faw him put his arme furth at the windo of the round ; and then left him ; for I confavit in my heart, that it wes ane plane Treaffoun confpyrit aganis his Maieftie : And wes inducit heirto, in refpect of the prefumptionis following : Firft, I faw the Kingis Maieftie and vmq^{le} Maifter Alexander Ruthvene, my lordis brother, gang furth at the hall dure, thair allanes, quhair as his Maieftie had na wapponis, and Maifter Alexander had ane fworde : Nixt, I faw his Maieftie cum in quiet and fober maner to the towne, quhairthrow apperantlie he wald haue na ewill purpofe in his mynd : *Item*, the faid Maifter Alexander rydand to Falkland, in the morning, wes obfcurit¹ fra me and my brother Hew, quhair he wes ; and I haveing inquirit of my brother Hew, ‘ Quhair he wes riddin to ?’ He knew nathing thair of ; fua that nather he nor I culd gett tryell of the famin : *Item*, I haveing inquirit at Andro Henderfoun him felf, quha raid to Falkland with the Maifter, and returnit tua houris befoir him, fylit me,² and anfuerit, that he had bene tua or thrie mylis abone the towne : And alfe, the faid Andro had ane vther dwblit on him nor he vfit commounlie, and wes mair bukfun ; and, as apperit, micht haue contenit ane fcrete :³ *Item*, that day, being the Counfaill day of the towne, my lord excusit him felf, in refpect of his adois :⁴ *Item*, I haveing preafit him to fubfcrive ane Confirmatioun of ane ladyis, firft ; refusit, in refpect foirfaid ; alwayes⁵ paffit it thaireftir : *Item*, my lord taryit langer fra his denner nor he vfit ; and albeit Andro Ruthven, quha wes with the Maifter, come and roundit to my lord at the burde, he maid him to misknaw all thingis, vnto the tyme the faid Maifter Alexander come him felf ; and than raife from the buird and mett his Maieftie : *Item*, my lord obfcurit altogidder, that he knew the cumming of ony man, quhill the Maifter come : *Item*, Maifter Thomas Cranftoun was the firft that I hard cry, ‘ The Kingis Maieftie is away !’ *Item*, eftir my lord Duik, and my lord of Mar, and his Maiefteis fernandis wes in the clofe, my lord of Gowrie come bak agane to the hall, fayand, ‘ The King wes away ;’ fua that, as I thocht, he wald haue ilk man thinkand fua. And I thocht his Maieftie wes not reffavit with that heartlie intertenement, as becam : *Item*, eftir his Maiefteis ryding away, my brother Hew come to my houfe, and I inquiring of him, ‘ Quhat he thocht of thir materis ?’ Anfuerit, ‘ Befoir God, fafar as I can perfave, I trow it fall kyth⁶ to be ane plane Treaffoun, one my lordis pairt :’ And I fperand at him, ‘ Gif he knew ony thing thair of ?’ Anfwerit, ‘ He knew nathing, bot he and Harie Ruthven, eftir all thingis wer endit, fell in conference heiranent ; and he thocht thingis wer lyklic.’ *Last*, Andro Henderfonis Lettre moves me maift of all. And, vpoun my faluatioun and condemnatioun, I knaw na forder in this

¹ Hid, concealed.
 secret mail, worn quilted in the dress.

² Evaded the question ; literally, ‘ jinked me.’

⁴ Busines, affairs.

⁵ Yet, notwithstanding.

⁶ Turn out.

mater, nor yit can remember of ony vther circumstance or presumption nicht haue inducit me to confave the former Treassoun, quhilk I apprehendit in maner foirsaidd. (Sic subscribitur) MAISTER JOHNE MONCREIF.

(11.) ANDRO RAY, ane of the Bailleis of the burgh of Perth, be thir presentis, testefeis vpoun my conscience and in the sicht of God, as I fall ansuer to him in the great day, That vpoun the fyft day of August I^m and sex hundreth yeiris, I being in the vmq^{le} Erle of Gowreis ludgeing, quhan his Majestie wes thair, saw his Majestie eftir his dennar, accompanyit with the Maister of Gowrie, ryse frome the tabill, and gang furth of the chalmer quhair he had dynit, bot to quhatt place I know nocht; being behalding the said vmq^{le} Erle of Gowreis intertenement of the nobillmen, in drinking of his Majesteis schoill to thame, quhilk his Majestie, befor his ryfing frome the tabill, had commandit him to do: And that eftir that the lordis, viz. my lord Duik, my lord of Mar, my lord Lunderis, and my lord of Inchaffray, with findrie of his Majesteis gentilmen and seruandis, accompanied with the Erle of Gowrie in persone, ane schorte space eftir dennar, had missit his Majestie and inquirit, 'Quhair he suld be?' They went to the foirgaitt, and speirit at the portar, 'Gif he saw the King ga furth at the foir yeitt?' And hard the portar ansuer, that 'His Majestie wes nocht gane furth that way.' Also, That the Erle of Gowrie said to the porter, 'ȝe lie, knaif! He is furth.' And the porter replyit, that 'he suld gif his heid, in caise his Majestie went furth.' Yit, vpoun the Erle of Gowreis assurance, that 'his Majestie wes furth to the Inche,' the lordis ruscht out in haist at the foiryett, and speiring, 'Quhair the King wes?' I being with thame, I saw ane ding vp the lang scoirit window, in the north syd of the turrett, vpoun the Hiegait; bot quha dang it vp I know nocht. And forder, saw cleirly his Majestie, beir heidit, schut¹ furth his head and arme at the foirsaidd window; and hard his Majestie crying loudlie, 'Fy! Treassoun! Treassoun!' And, 'Murther! Help! Erle of Mar!' Quhairvpoun I, being verie agast and wonderfullie astonyed at that cruell and terribill sicht, and pitiefull and wofull cry, I nocht knawing quhat the mater meinit, bot persaveing his Majestie in extreme and great danger, ran with all possibill diligence throw the streittis, crying loudlie, 'Fy! Treassoun! Treassoun' aganis the King! For Goddis saik, all honest men haist and releif the King! And commandit to ryng the commoun bell, that all men nicht cum in haist to his Majesteis relief. And than I returnit, with all possibill diligence, with ane great number of the people with me, and come afor the foirsaidd turret and window, quhair I saw his Majestie first crye out: And than I cryit out, 'How is the King?' Bot my lord Duik and my lord of Mar answeirit, 'The King is weill, (praist be God).' Than I cryit agane vp to his Majestie, and schew his Majestie

¹ Shoot, push, thrust.

that the Bailleis and towneschip wes thair cum, in all haift, to supplie and releif his Majestie; and thairfor, besocht his Majestie to command, ‘Quhat wes his Majesties will and best to be done?’ And than his Majestie bekuit furth his hand to me and to the peopill, commanding me to ‘cause the peopill retein thame to thair ludgeing.’ Quhilk commandment I incontinent obeyit, and commandit all maner of man to retein thame felfis to thair ludgeings: And elykwyes, past to the marcat croce, and be oppin proclamatioun, commandit, in his hienes name, that all men suld retein thame to thair ludgeingis, vnder the pane of Treassoun: Quha obeyit, incontinent eftir my charge. And this I testifie to be of veritie, be the fayth and trewth of my body; safar as I justlie can remember. In witnes of the quhilkis, I have subscriyuit thir presentis with my hand, At Perth, the threttene day of October, the yeir of God I^m and sex hundreth yeiris, befor thir witneffis, Maister Patrik Galloway Minister to his Majestie, James Drummond of Letchill, Oliver young, Constantyne Mallice, Thomas Johnnestoun, Bailleis, Henrie Eldar, clerk, Robert Andersoun, Andro Arnott and Williame Jak, burgeffis of Perth.

(Sic subscribitur)

ANDRO RAY, Baillie, with my hand.

PATRIK GALLOWAY witnes,

JAMES DRUMMOND witnes,

OLIVEIR YOUNG bailzie witnes,

THOMAS JOHNESTOUN baillie witnes,

ROBERT ANDERSOUN witnes,

ANDRO ARNOTT witnes,

WILLIAME JAK witnes,

HENRIE ELДАР, scribe, witnes.

(12.) ROBERT CRYSTIE, porter to vmq^{le} Johne Erle of Gowrie, of the age of threttie yeiris, *solutus*, deponis, That he wes porter to the Erle of Gowrie, the fyft day of August, libellit; lyk as, he wes be the space of fyve oukis ofbefoir: And schortlie eftir the denner, this deponar saw my lord Duik, the Erle of Mar, the Erle of Gowrie cum to the cloise, and my lord Duik speirit at this deponar, ‘Gif his Majestie wes passit furth of the cloise?’ The deponar ansuerit, that ‘he wes nocht furth.’ Then the lord of Mar said, ‘Billie,¹ tell me the veritie, gif his Majestie be furth or nocht.’ And he ansuerit, ‘In treuth he is nocht furth.’ The Erle of Gowrie, lukand with ane angrie countenance, said, ‘Thow leid!² He is furth at the bak yett, and throw the Inche.’ Than this deponar ansuerit, ‘That can nocht be, my lord, for I hane the key of the bak yett, and of all the yettis of the place.’ Thaireftir, this deponar hard and saw his Majestie hikand furth of the window of the round, and cryand ‘Treassoun! Treassoun! Fy! Help! Help, my lord of Mar!’ And incontinent, my lord Duik and Erle of Mar and vtheris ran vp the great turnepyke to the gallerie: And thaireftir, the lord of Gowrie come from the Hie-streitt, within the cloise, haveand ane steil-bonnet

¹ Brother, fellow; a familiar and jocular mode of address; equivalent to ‘my lad,’ or ‘my man.’

² Lied, told a falsehood.

on his heid, and ane drawin sword in ilk hand, accompanyit with Alexander and Harie Ruthvenis, Patrik Eviott and Hew Moncreif, Maister Thomas Cranftoun, all haveand drawin swordis in thair handis; and passit altogidder, with my lord, vp the auld turnepyk. Bot quhat wes done within the house and place thaireftir, kennis nocht, bot be reporte; nether saw he ony gest¹ brocht to the place, be ony of the towne: And kennis na mair in the mater.

(Sic subscribitur)

ROBERT CHRYSTIE.

(13.) ALEXANDER BLAIR, younger of Balthayok, sworne and examinat, deponis *conformis immediate precedenti*, except, that he saw nocht my lord of Gowrie pas with his company and drawin swordis vp the turnpyk: Bot saw Alexander and Harie Ruthvenis and Hew Moncreif cum down the litill turnepyk, quhair they and my lord had ascendit; the saidis thrie personis, haveand drawin swordis in thair handis: Bot saw nocht Patrik Eviott thair. And this deponer sayis, that eftir the tumult wes rifline, and this deponar preffand to enter within the place, he wes a litill stayit² be thame in the place; bot they yeldit attanis,³ and the deponar gat entrie. Lykwayes, he saw ane gest brocht in frome the towne, and sett vp at the wall of the cloise; bot quha brocht the famin in, he kennis nocht.

(Sic subscribitur)

A. BLAIR apperand of Balthayok.

(14.) GEORGE HAY, Priour of Charterhouse, of the age of tuentie aucht yeiris or thairby, mareit, deponis *conformis* to the lord Duik of Lennox, in all thingis, eftir his Majesteis entrie in Sanct Johnestoun, the day libellit; *addendo*, that that samyn day, the deponar haveand ado, in Sanct Johnestoun, with the Erle of Gowrie, and speikand with him, in his awin place, he saw Andro Henderfoun cum in, buttit, from Falkland; and hard the said lord Gowrie inquire of the said Andro, 'Quha wes with his Majestie in Falkland?' And thaireftir, the said Erle tuk the said Andro Henderfoun to the cabinat; and eftir ane certane space, the Erle cummand to the chalmer, he gaif this deponar his dispathe, sayand, that he had to do that day, and nicht nocht awaitt on his erand, and bad him cum ony vther day.

(15.) MAISTER PETIR HAY, of the age of threttie yeiris or thairby, mareit, deponis *conformis* to George Hay, in all thingis; the witnes immediatlie preceding.

(16.) ROBERT GRAHAME of Thornik, sworne and examinat, deponis conforme to the Duik of Lennox, eftir that his Majestie enterit in Perth.

(17.) OLIVEIR GOUNG baillie in Perth, sworne and examinat, deponis, That the day libellit this deponer wes in the Erle of Gowreis ludgeing, quhair he saw the King dyne: And, eftir denner, saw the Kingis Majestie and Mr Alexander Ruthven pas, thair allanes, throw the hall and vp the turnepyk. And immedi-

¹ Joist, beam.

² Delayed, detained.

³ At once.

atlie thaireftir, this deponer past to his ludging in the towne, quhair he abaid quhill the crye and tumult raise. And incontinent, this deponer, rymand to the place libellit, his Majestie cryit out at the window, and commandit this deponer, be name, to stay the tumult of the people; the quhilk this deponar obeyit and did: And saw Hew Moncreif cummand furth of the place libellit, his face being bludie, and Harie Ruthven, aue of the defendaris, at the mouth of the Wattergait, with aue drawin sward in his hand. And kennis na mair in the mater.

(18.) JAMES DRUMMOND of Pitcarnis, sworne and examinat, deponis *conformis immediate precedentj, in omnibus; addendo*, That as this deponar, immediatlie eftir the cry rais, wes cumand to the place libellit, he meittis vpoun the Hie-streit, Alexander Ruthven, aue of the defendaris, haveand aue drawin sword in his hand, and cryand, 'Fyre and pulder!'¹ And kennis na mair in the mater.

(19.) WILLIAM RYND, flescheour in Sanct Johnestoun, of the age of threttie yeiris, or thairby, mareit, deponis, That he saw within the cloise of Perth, eftir the frey raise, Patrik Eviott and Hew Moncreif, baith bluidand, haveand drawin swordis in thair handis.

(20.) HENRIE LEYIS, burges of Perth, sworne and examinat, deponis *conformis* to James Drummond and Williame Rhynd; bot he saw nocht Patrik Eviott thair.

(21.) GEORGE WILSOUN, seruand to James Erskyne, of the age of tuentie four yeiris, or thairby, *solutus*, deponis conforme to Schir Thomas Erskyne, in all thingis; be resson this deponer wes in company with the said Schir Thomas, eftir the first time that he and James Erskyne grippit the Erle of Gowrie, and wes findrit fra him be his seruandis. And immediatlie thaireftir, this deponer accompanyit the said Schir Thomas Erskyne vp to the turnpyk, into the chalmer quhair his Majestie wes; quhair he saw as the said Schir Thomas hes deponit, in all thingis.

(22.) DAVID RYND, flescheour in Perth, sworne and examinat, deponis *conformis* to James Drummond; and hard Alexander Ruthven cry for pulder; bot saw nocht Patrik Eviott.

(23.) GILBERT RITCHERTSOUN, in Perth, of the age of tuentie four yeiris or thairby, *solutus*, deponis *conformis* to James Drummond in all thingis, and David Rynd.

(24.) JOHN MURRAY of Arbany,² of the age of fyftie aucht yeiris or thairby, mareit, deponis: The day libellit, the deponer come to Sanct Johnestoun, eftir dennar, quhair he hard his Majestie cryand furth at the window of the round, 'Fy! Treassoun! My lord of Mar! Help!' Incontinent thaireftir, my lord of Mar and the Duik ran vpe the broad turnepyk, and the deponar followit

¹ Fire and gunpowder.

² Commonly called 'Meikle Johnie.'

thame in the clofe, quhair he faw the lord of Gowrie, haveand ane fteil-bonnet on his heid, and tua drawin fwordis, ane in ilk hand: And faw the faid Erle pas vp the turnepyk, accompaniit with certane his feruandis, haveand drawin fwordis in thair handis, of quhome he knew nane.

(25.) THOMAS BURRELL, burges of Perth, fworne and examinat, deponis conforme to James Drummond; *addendo*, That the tyme of the fráy, this deponar, enterand within the cloife of the place libellit, he faw ftanding in the clofe, with drawin fwordis in thair handis, Alexander and Henrie Ruthvenis and Hew Moncreif, bledand in his face. And at that famin tyme, this deponar faw Maifter Thomas Cranftoun cun doun the blak turnepyk; and he tuk furth of his hand his fword, and hard the faid Alexander Ruthven cry for ‘Fyre and pulder.’ And faw nocht Patrik Eviott thair.

(26.) GEORGE¹ FORREST, tailzeour in Perth, of the age of fourtie yeiris or thairby, mareit, deponis; The day libellit, he faw George Craigingelt and Walter Cruikshank, allakey,² ftanding in the yaird with drawin fwordis.

(27.) WILLIAME ROBERTSOUN, notar in Perth, of the age of threttie four yeiris or thairby, mareit, deponis, The day libellit, this deponar, beand within the clofe of the place libellit, he faw the lord Gowrie ftanding in the clofe, accompaniit with fevin or aucht perfones, of quhome he knew nane; the faid Erle than haveing ane fteill-bonnet on his heid, and ane drawin fword in ilk hand; at the quhilk ficht, this deponar being affrayit, pafte furth of the place: And kennis na mair of the mater.

(28.) ROBERT GALBRAITH, fernand to the Kingis Majeftie, of the age of threttie yeiris, deponis *conformis* to the lord Duik of Lennox, in all thingis; be reaffoun this deponer, all that day, wes in company with his Majeftie. And eftir that his Majeftie had cryit out at the window, ‘Treaffoun!’ this deponer followit the Duik and Earle of Mar vp the turnepyk: And deponis, as they haue deponit.

(29.) ROBERT BROUN, feruand to the Kingis Majeftie, deponis *conformis immediate precedenti, in omnibus*; becaus this deponer, the tyme libellit, accompaniit Johne Hamyltoun, to feche the hammeris vp to the galry: And this deponar pafte vp the litill blak turnepyk, and at his firft entrie within the chalmers, he faw the Erle of Gowrie lyand dead; thair being at that tyme in company with his Majeftie, Schir Thomas Erskene, Schir Hew Heres, Schir Johne Ramfay, and George Wilfoun.

(30.) JAMES BOG, porter to his Majeftie, fworne and examinat, deponis, That he faw the Kingis Majeftie and Maifter Alexander Ruthven pas throwch the

¹ ‘Alexander’ is deleted and ‘George’ inserted.

² Old Fr. *Lacquay*, *laquais*, a footman.

hall to the chalmer. And saw, that day, George Cragingelt with ane drawin sword in his hand, accompanyit with certane rascallis. And, *in ceteris*, deponis *conformis* to the lord Duik and Erle of Mar, in all thingis.

(31.) **JOHNE BOG**, seruand to the Kingis Majestie in the aill cellar, sworne and examinat, deponis *conformis* to James Bog.

(32.) **ALEXANDER PEBLIS**, burges of Perth, of the age of threttie yeiris or thairby, mareit, deponis, The day libellit, this deponar being within his awin house, foiranent the Erle of Gowres ludgeing, howsone his mother hard the common bell ryng, scho lokkit the dure and held him in all the tyme: And saw at that tyme the Erle of Gowrie enter in at the yett, with tua drawin swordis, ane in ilk hand: And ane allakey¹ put ane steil-bonnet on his heid. And ane certane space thaireftir, the deponar saw Hew Moncreif cum furth of the place, with ane bludie heid, and Patrik Eviottis man, lykwayes bleidand. And also, saw Patrik Eviott cum forth of the yett; bot rememberis nocht gif he had ane sword in his hand. And saw Alexander Ruthven also cum furth, with ane sword drawin in his hand. (Sic subscribitur) **ALEXANDER PEBLIS**.

NO. II.

INTERROGATORIS² to be demandit of the Witneses, sworne and admittit, in the actionnes and caus of Foirfaltour persewit aganis Williame Ruthuen, brother, air and successor of vmq^{le} Johnne sumtyme Erle of Gowrie, and vmq^{le} Mr Alexander Ruthuen his brother; Alexander and Harie Ruthuenis, Hew Moncreif and Patrik Eviott.

FIRST to inquyre, Geif they knew that the vmq^{le} Erle directit the said Mr Alexander, Andro Henderfoun and Andro Ruthven to his Maiestie, to Falkland, to persuade him to cwm to Sanct Johnestowne?

Gif thai saw the said Mr Alexander cwm to his Maiestie, to Falkland, vpoun the fyft day of August, lastbypast?

Gif thai knew that the said Mr Alexander directit Andro Henderfoun and Andro Ruthuen, seuerrallie, to foirwairne Gowrie that the King was cuming to Perth that day?

Gif thay saw the saidis Andro Henderfoun and Andro Ruthuen, befor the Kingis cuming, cum to Gowrie and speik secreteitlie with him? Geif thai knew that Gowrie commandit Andro Henderfoun to put on his armour? Or geif thai knew that the said Andro patt on his secreit the said day?

Gif the said Mr Alexander come to Gowrie, befor the Kingis cuming, and spak with him secreteitlie? How the King was accompaneit? And geif his servandis had ony vther armour or vapounes nor³ suordis?

Gif they saw Mr Alexander, Andro Henderfoun and the Erle gang wp to the gallerie chalmer, the tyme of the Kingis dinner?

Gif, efter the Kingis dinner, they saw the said Mr Alexander, with his suord about him, convoy the King his allaine, without ony vapounes, to the gallerie chalmer?

¹ This was Walter Crookshanks. He is not known by the Editor to have been brought to Trial, or otherwise punished. ² From an original paper, preserved amongst the Warrants in General Register House. ³ Than.

Gif thai hard vmq^{le} Mr Thomas Cranftoun declair to the nobilmen, and to the Kingis fervandis, that his Maieftie was riddin away?

Gif they hard the faid Erle awow the fame to thame, with greit aithis?

Gif they faw his Maieftie fchut¹ out his bair heid and airme out at the windok of the turret aboue the 5ett, and cry ‘Treafoon! Help! I am Murderit!’ The faid Mr Alexander haifing his hand at his hines faice and his throt?

Gif they faw Andro Henderfoun, in the turrat, at that tyme?

Gif they faw the faid Mr Allexander treaffonable efforring him felf to murder his Maieftie?

Geife they faw Gowrie, with his tua drawin fwordis, accompaneit with ane greit number of his compliceis in airmes, twrn aff the calfay of Sanct Johnneftoun into his awin cloife, with vmq^{le} Mr Thomas Cranftoun, the faidis Allexander and Harie Ruthuens, Hew Moncreif, Patrik Eviot, and ryn al-togidder wpe the Blak turnpyke of the faid ludging, feik his Maieftie for his flauchter, and invade and perfew Schir Johnne Ramfay, Schir Thomas Atkin and Schir Hew Heirreis, in his hines defens, and hurtt and wond eweriane of thame? And geif they faw Georg Craingelt, Georg Dewar and ane greit number of vtheris of Gowreis fervandis and dependaris, befett the foir-5et and bak-5et, and in-cloife his Maieftie within the faid ludging, flay the entreffes and paffagis thairrof, and affeidg his Maieftie thairin, and cry, ‘Greine coittis, 5e fall all die! 5e fall all be hangit?’

Gif they faw the faidis defendaris perfew the duris of the chalmeris, quhair his Maieftie and his fervandis was, and ftryk in thairat, with dravin fuordis, and halbartis, and Jedbrugh flaveis?

Gif they faw Allexander Ruthuen caus bring ane jeft, treaffonable to haue brokin wpe the dooris of the faidis chalmeris and ludging?

And geiue they faw him feik powder in the mairechant buithis, to haue blavin the faid ludging in the aire, with his Maieftie and all that was thairin?

NO. III.

REPORT by the BAILLIES and TOWN COUNCIL OF PERTH of the EXAMINATIONS and ‘DEPOSITIONS OF THE INDUELLERIS OF PERTH,’² taken by them, by command of the KING and PRIVY COUNCIL.

APUD PERTH, *quarto die mensis Septembris, anno Domini millesimo sexcentesimo.*

QUHILK day, the Bailleis, counfall and decanes of craftis of the burcht of Perth, being convenit within the New Kirk of the famin, Comperit Jasper Howp, indueller in Edinburcht, presentit his Maieftieis Miiffiue, directit to thame, clofit; quhilk being with all due reverence reffaut and oppnit, the tennour followis:

TRAIST FREINDIS, We greit 5ow hairtie weill. We haue thoecht meit, for diuerse respectis and confiderationes, to continew the dyett appointit for 5our comperance befor our Counfell, vpone Tuif-day nixt; and haue directit tua of our Counfell particularlie to acquent 5ow with our will and plefour in that mater. Quhairvnto, as 5e respect 5our awin fuintie and weill, 5e will conforme 5our felffis. And fua, affuring 5ow that it fall nocht be neidfull to 5ow to kepe the faid dyett, We commit 5ow to God. From Striveling, the xij of September, 1600. (Sic fubfcribitur) JAMES REX.
[And writtin on the bak thairrof,]

To our traift freindis, the BAILLEIS, Counfall and comunitie of our burt of PERTH.

LYKE AS, vpone the xvij day of September instant, in prefens of the faidis Bailleis, counfall and

¹ Shoot, push, thrust.
the first time.

² From the Original, preserved in the General Register House, and now printed for

decanes, fiklyke connenit, within the said New Kirk, Comperit the rycht honorabill Schir Robert Melwill of Murdocardny, kny^t, and Schir David Murray of Gosperte, kny^t, Comptroller to his Maieſtie, tua of his hienes Counfall, and declarit, that, conforme to his Maieſteis General Letter, direct of befoir, they wer direct in Commiſſioun, to impairt to the ſaidis Bailleis and Counfall his Maieſteis mair particular will and pleſour, anent the trying of ſic within thair ſaid bur^t as miſbehavit thame ſelfſis wpone the fyft day of Auguſt laſt. Quhilk wes, that the Proueſt, bailleis and counfell fuld, be thame ſelfſis, try thair awin nychtbouris quha wer amungis thame, ather in word or deid, that kythit¹ buſſie wpone the ſaid fyft day of Auguſt laſt; quhen as the wmq^{le} Erle of Gowrie and the Maſter his broder did that in thame ley, to haue putt in executioun thair intendit Treſſoun, aganis his Maieſteis perſone; and that thairin they fuld leave na fort of tryell ontane,² as they reſpectit thair awin fuirtie; qubair-by, ſic giltie perſones mycht be pwneit for thair offence according to thair merit, and innocentis nocht preiudgit: And that, betuix and the day of , they report thair diligence to his Maieſtie thairanent. Quhilk deſyre, thocht godlie, honeſt and equitabill, the ſaidis Bailleis, counfall and decanes, with all faithfullnes and diligence, promittit to obey.

APUD PERTH, vigefimo ſecundo Septembris, anno Domini Milleſimo ſexcentefimo. Quhilk day, Proueſt, bailleis, counfall and decanes of craftis of the bur^t of Perth, being convenit within the New Kirk of the ſamin, efter lang reſſonyng haid be thame wpone the forme and maner of the trying of thair awin nychtbouris,³ conforme to the Commiſſioun declarit to thame be his Maieſteis Commiſſionaris, direct to thame for that effect; Ordanit the tryall to be deducit, in maner following, viz. That the Proueſt, Mr Johne Malcome and Williame Cowper, Miniſteris; Conſtantine Malice, Andro Ray, Thomas Johnſtoun, bailleis; James Drummond of Leithill; James Adameſone, dene of gild; Robert Mathow, theſaurar; Robert Anderſone, Andro Arnot of the Counfall, and Henry Elder, clerk, ſall be Examinatouris and reſſaueris of the hail townis Depoſitiounis.

And becaus it is neceſſar, that the Examinatouris depone firſt thame ſelfſis, thairfoir, that ſua mony of thame (except the Proueſt) as wes nocht in the toun, wpoun the ſaid fyft day of Auguſt laſt, viz. the tua Miniſteris, Conſtantyne Malice, baillic, Robert Anderſone and Andro Arnot, ſall reſſaue the remanent thair colligis Depoſitiones; and thairefter, thay all concurrand togidder, to reſſaue the Depoſitiones, firſt of the remanent Counfell and decanes, and thairefter of the hail inhabitantis of the ſaid bur^t, begynnand at the Water-gait quarter, and ſua ordourly throw the hail quarteris and ſuburbis of the ſamin bur^t. And for that effect, the ſaidis perſones appointit for the examinatioun foirſaid, to convene within the ſaid New Kirk, at ſevin houris in the morning, to continew till nyne; to meit thairefter at ten, to remane quhill tuelff; to meit at tua efter none, and to diſſolve at ſex houris at evin; and to follow furth this ordour daylie, quhill the tryell be endit; begynning the morne, at ſevin houris in the mornying. The officiar of everie quarter to be reddy for warnying of thair quarteris, as they ſall be commandit. Everie perſone to compeir vnder the pane of ten pundis. The drum to paſ about the toun for that effect; and the Examinatouris, nocht keping the preceiſe tymes of conventionne, without ane lauchfull excuſe, to incur the penaltie of tuentie ſchillingis, *toties quoties*, vnforgevyn.

Everie perſone to be ſuorne, to teſtifie the veretie, wpone thair conſcience, and in the ſicht of God, and as they ſall anſwer to him in the grait day; and to be examinat wpone the hedis and artikles following, viz.

[HEADS and ARTICLES of EXAMINATION.]

Giff they haid ony foirknowledge off the wyld and vnnaturall Treſſoun, intendit aganes his Maieſteis perſone, wpone the fyft day of Auguſt laſt, be the wmq^{le} Erle of Gowrie and the Maſter his broder?

Giff they com to the ludgeing, with thair armour, to aſſiſt that filthie fact?

¹ Showed, or proved themselves.

² Untaken.

³ Neighbours, townsmen.

Giff they thame selfis vterit or hard ony onreverent speches gevin to his Maiestie, or to ony of his lienes seruandis?

Giff they saw ane jeist¹ brocht to the ludgeing?

Giff they hard ony crying of 'Grene-cottis!' 'Bludie botfcheris!' 'Tratouris!' 'Murderaris!' 'Ze fall all die!' 'Giff ws furth our Prouest!' Or ony siclyke evill wordis?

Giff they hard ony cry for 'Fyre,' or 'Powder'?

Giff they saw ony mynt² at ony of the Kingis Maiesteis seruandis to strik thame?

Giff they know ony thing of the said wyld Tressfoune that is nocht sperit at thame? Or, ony forder nor is contenit in the saidis Artiklis? Or gif, sen the said fyft day of August, they hard ony thing, that in ony fort may cleir the said mater?

AND becaus they ar informit, that he, quha wpone the said fyft day of August, within the toune of Dundie, fuld hane vterit thai filthie and vnnaturall speches aganes his Maiestie, quhilkis demerittis extreme pwnement, is **JOHNE LAMB** sone to Robert Lamb, burges of this bur^t, quha being searcit and socht, can nocht be apprehendit within this toune:

(1.) The said **ROBERT LAMB**, his father, being sworne wpone his intelligence, quhair he fuld be? Deponit that he past out of this bur^t ten dayis syne, to quhat pairt he culd nocht tell; bot as he supponit, he wes ather past to Striuling, Glesgow, or to the hieland pairtis of Lorne; in the quhilkis pairtis the said Johne wfs his puir handling and traffek. Quhairfoir, the saidis Bailleis, Counfall and decanes, ordanit Thomas Johnestoune, baillie, to sic and conduce sex abill men, and with all diligence to pass to the saidis pairtis of Striveling and Glesgow, to searce, seik and apprehend the said Johne Lamb, and as occasioun beis offerit, to send tua and tua of his cumpanie to Lorne and wtheris pairtis quhair best knowlege may be haid of the said Johnis being, ay and quhill they apprehend him; and the thesaurer to satisfie the said Thomas his expensis to that effect.

23 *Septembris*, 1600. Befoir none.

IN PRESENCE of the saidis EXAMINATOURIS, COMPERIT the persones following; quha being suorne wpone the retro-writtin Artiklis, deponit every ane, as followis.

(2.) **OLIVER JOUNG**, baillie,³ suorne, deponit that efter he wes commanding the pepill hame, at his Maiesteis command, the entres of the foir zett was kept be certane of the Erle of Gowryis servandis, with drawin swordis; amangis quhome Thomas Bissett cordiner wes; quhilk Thomas, sua sone as he wes commandit be the deponer, depairtit fra the zett. Saw nor hard na forder, be ressoun of his bisynes, in dispasscheing of the pepill.

(3.) **THOMAS JOHNESTOUNE**, baillie, deponit, that he cuming thair at the found of the bell, saw ane tumult befor the Erle of Gowryis ludgeing; and being desyrit to gang hame be the Laird of Balthyok and Jounng Tullybardin, he immediatlie depairtit; and in the away passing, saw Alexander Ruthuene yonger ryn throw the Water-gait, with ane drawin suorde, cryand, 'Falsie Tratouris!' *Ignorat cetera.*

(4.) **JAMES DRUMMOND** deponit, he saw Alexander Ruthuene younger wpone the gait⁴ with ane drawin suord, cryand, 'Ey for powder! He is deid! He is slane!' Saw siclyke, Johne Rentoull standing in the foir zett, with ane drawin sworde, haiffing ane steill bonett, ane secreit and gantullat. *Ignorat cetera.*

(5.) **JAMES ADAMESCONE** deponit, that being in his awin clofe gadgeing⁵ ane salomond barrell, to mak ane millour⁶ thair of to wther barrellis, Johne Tenendyse wyff, officiar, knokit werie loudlie at

¹ Joist, or beam. It is termed a single roof-spar in the course of the examination.

² Threaten, make attempt to strike.

³ This active and zealous Magistrate died Dec. 29, 1603, as is recorded in *Fleming's Chronicle*.

⁴ Street.

⁵ Gauging.

⁶ Measure, size, pattern.

his zett, cryand, ' Allace ! Thair is mony wapnys about the Kingis hous : And they say the King is schott.' Quha, at the hering thair of, com suddandlie furth, quhair he saw Andro Ray, baillie, cryand, ' Fy ! Treffoune ! Cum and releve the Kyng.' And immediatlie stoppit doune foirnent the ludgeing ; quhair, how sone he come, saw the Duik and the Erle of Mar, declaring the King wes weill ; and defyring all men to depairt to thair houffis, Quhairat, and efter he haid fene the Kingis hand putt out at the wyndo, he incontinent depairtit hame. *Ignorat cetera.*

(6.) ROBERT MATHOW deponit, that he, cuning at the found of the bell, hard Violet Ruthvene and Margaret Moncreiff, relict of wmq^{le} Thomas Lafreise, cryand, ' Bludie boitschearis !¹ Depairtit at the command of the Bailleis and clerk. *Ignorat cetera.*

(7.) HENRIE ELDER deponit, being in his awin chalmer quhen the bell wes ringing, quhillk wes ceiffit befor he culd wyn to the South-gait-end, quhair he, heryng the Nobill men that wer aboue, crying for the Bailleis to command the pepill hame, he with the saidis Bailleis dispasschit the pepill : And thaireftir, immediatlie past to the mercat croce, and thair, in his hienes name, commandit all maner of men to pas to thair houffis, wnder the pane of Treffoune : And returnyng thairfra to the ludgeing agane, all the pepill haid removit thame selffis, except sum of the wmq^{le} Erle of Gowryis servandis, quha wer standing in the foir entrie of the zett, with drawin swordis ; amangis quhome, Thomas Bissett, cordiner, wes ; quha, howsone he wes commandit be Oliuer young, bailzie, and the deponer, patt wp his sworde and depairtit. Saw Alexander Ruthuene cuning furth at the foir-zett with ane drawin fuorde, and sayde to the deponer, ' Theiwis ! ze ar vnworthie of sic ane Prouest !' And, ' Giff he leiwe, he fall remember on this day.' *Ignorat cetera.*

ALL the Examinatouris concurrand,

(8.) MR HENRIE ANDERSONE deponit, he saw ane fallow, bering ane singill roiff spar on his schoulder, cuning fornent the foir-zett of the ludgeing thairwith : Culd nocht discerne quha buir the famin, for the tumult, and being occupeit, hering the Bailleis cry for his Maiesteis helth and will : And immediatlie thaireftir depairtit. *Ignorat cetera.*

(9.) PATRIK BLAIR deponit, he come thair with the clerk ; and or² he culd win thair, the bell wes rung out, and the Nobill men wes commanding all hame. Quha thairat depairtit, leaving the Bailleis and clerk commanding hame the pepill : And being at the croce, saw Alexander Ruthuene, yonger, first addres him to the merchant-buyth of Blais Powrie, and thairefter to the merchant-buyth of Johnne Lawrie. Knew nocht quhat he wes seiking, in respect of the distance betuix thame. *Ignorat cetera.*

(10.) WALTER GRAY deponit, that he wes furth in the South Inche ; and gatt na entrie. *Ignorat.*

(11.) PATRIK GRANT deponit, he come with his armour, at the found of the bell, foirnent the ludgeing. Hard Williame Rynd, flescher, being in the auld brokin house aboue the foir-zett, cry furth at the wyndo thair of, ' The Prouest is slane !' Saw also Patrik Lamb, sawster,³ cuning throw the Water-gait, with ane singill roiff spar on his schowder. Saw Alexander Ruthuene cum furth of the ludgeing, with ane drawin sworde, cryand, ' Fy on zow all ! Thair is ane Nobill man tynt⁴ this day.'

(12.) JOHNE OGILBY, decane, deponit, that at the found of the bell he com thair ; saw ane man cuning to the place with ane jett on his schowder. Knewis nocht quha it wes. Hard Jolne Rentoull cryand, ' Grene-coittis ! ze haue committit murther !' And the deponer reprowing him, he anfuert, ' ze ar nocht gude nychtbouris⁵ in ane towne, that helpis nocht zour Prouest.' *Ignorat cetera.*

(13.) WILLIAME JAK, decane, deponit he com befor the ludgeing, at the found of the bell, with ane Ross-aix,⁶ or halbert ; and spering be the way, quhat the mater menit ? The pepill cryit, ' The King wes slane !' And he na soner com thair, nor he hard all crying, ' The King wes weill !' And he depairtit. *Ignorat cetera.*

¹ Butchers.

² Ere, before.

³ Sawyer,

⁴ Lost.

⁵ Citizens, townsmen.

⁶ Lochaber-axe.

(14.) DAVID RYND, decane, deponit he com with his armour to the ludgeing, at the found of the bell; and feing wtheris pafs wp the blak turnepyk, he followit wp; quhair he saw Hew Moncreiff strikking in wnder the chalmer dur with ane Jedwart staff,¹ and wald nocht be stayit be the deponer. Saw Patrik Lamb, lawfter, on his schowder, but ony help, bring in ane roiff spar, foirnent the foir zett of the ludgeing. Hard Alexander Ruthuene cry, 'Fy, bring powder!' *Ignorat cetera.*

(15.) THOMAS BISSETT, decane, deponit, at the found of the bell, he com thair. Confessit he stuid in the entrie of the foir zett, with ane drawin sword; and how sone Oliner young and the clerk commandit him hame, he depairtit. Denyit all the rest.

(16.) ANDRO CUDBERT, decane, deponit, he wes in the Wod of Methuene that day, quhill evin. *Ignorat.*

(17.) WILLIAME MATHIE, decane, deponit he com at the found of the bell. Saw ane man cuming throw the Water-gait, with ane spar on his schowder; bot knawis nocht quhat he wes that buir it. *Ignorat.*

(18.) WILLIAME ROBERTSON, decane, deponit he wes nocht thair.

23 Septembris, 1600. Efter none.

THE NAMES OF THE QUARTERIS.

(19.) GILBERT RYCHERDSONE deponit, at the found of the bell, he com foirnent the ludgeing, past wp the Blak turnepyk, quhair he saw . . . Bruce, sone to Williame Bruce, with ane drawin fuorde, eryand in wnder the dur, 'My lord Duik, for Godis sailk, tell me how the Kyngis grace is?' And the deponer cryit ower the wyndo, 'Cum wp and help the Kyng and the Prouest!' And being commandit hame, he depairtit to the croce, quhair he saw Alexander Ruthuene, crying at Johne Lawreis merchant-buyth, 'Cum donne and giff us powder!' But nane ansuerit. *Ignorat cetera.*

(20.) WILLIAME RYND, flescher, deponit, that he, being slaying flesche, hering the commoune bell, com donne foirnent the ludgeing, with ane fuord, enterit in at the foir zett and wp the blak turnepyk, quhair he saw Hew Moncreiff with ane Jedwart-staff, Patrik Eviot and his man with drawin fuordis: And being thair, hering the pepill commandit hame, he cryit ower the wyndo, 'It wes the Kyngis will that all fuld gang hame;' and thairwith cuist ane sklait stane² ower the wyndo among the pepill, quhilk they say fell on ane talzeouris heid: And sua depairtit him self. *Ignorat cetera.*

(21.) THOMAS LAMB deponit, he com nocht thair, quhill all the pepill wes depairting. *Ignorat.*

(22.) THOMAS ROBERTSONE, *alias* DENIS, deponit, that at the begynnynge of the trubill, he wes in the wmq^{le} Erle of Gowryis kitcheing, helping to mak the denner reddy, with Robert Smythis man, quha wes principall cuik: Being demandit, 'Quha tuik wp my Lordis denner?' Ansuerit, Andro Henderfone, chalmerlane, tuik wp the first seruice; and betuix the first and the secund seruice, Andro Henderfone past furth with my lord, to meit the Kyng. Being siclyke demandit, 'Giff he hard ony word, that the Kyng wes to cum that day to the toune?' Ansuerit, 'Nane, quhill they gaid furth to meit his Maiestie.' Being forder demandit, 'Giff the said Andro Henderfone wes in the kitcheing, the tyme quhen the cry raife?' Deponit, he enterit nenir within the kitcheing, efter his outganging to meit the King; and giff wtherways it may be fund that he wes thair, he is content to be hangit.³ Deponit forder, efter the cry, he com furth of the kitcheing, saw the Maister lyand deid, at the Blak turnepye fute; and my lord with ane fuord in everie hand, ane steill-bonet on his heid, accompanyt with certane his fervandis, flap ower the Maister, and pas wp the Blak turnepyk; sua the deponer com furth. Knawis na forder.

(23.) MYCHAELE BAXTER, talzeour, deponit, That at the begynnynge of the trubill, he wes

¹ The Jedburgh staff, or pike, was, from its peculiar construction, celebrated in those days, both as a weapon of offence and defence. ² Threw a slate stone. ³ This strange mode of expression is intended as an earnest asseveration of the truth; and was probably made on a second or third repetition of the same question.

schapand ane cloik in his awin hous, quhilk is in the bak clofe of the wmq^{le} Erle of Gowryis ludgeing. Com nocht furth of the bak clofe, quhill¹ at the defyre of Andro Ruthuene, bot² ony wapnis. Helpit to beir wp the Maister, being deid, to the North chalmier, in the ludgeing on the wther fyde of the clofe. *Ignorat cetera.*

(24.) JAMES BOWER, notar, deponit, at the found of the bell, he com thair, in his armour, nocht knowing quhat the mater wes. Cryit wp to the Erle of Mar, 'How the Kyngis Maieftie did?' Quha anfuerit, 'His Maieftie wes weill.' And thairefter sperit,³ 'How the Pronest, my lord, did?' Quha anfuerit, siclyk, 'Weill.' Defyrit thairfoir, that his lordschip wald be sua gude as to latt him fie thair faces, that he mycht depairt. Quha anfuerit, 'I may be ane messinger to 3ow.' Defyrit him thairfoir to depairt hame; quha obeyit and depairtit. *Ignorat cetera.*

(25.) ROBERT TAL3EOUR deponit, he com thair at the found of the bell, with his armour. Saw Patrik Lamb, fawfter, bring ane fingill roiff spar on his schowder, foirnent the foir-3ett of the ludgeing; quhair Andro Ray, baillie, caufit him east the famin doune. Hard Violet Ruthuene eryand, 'Thewis! Lymmeris! Tratouris! and Bludie Theiwis!' Depairtit away, at command of Oliuer 3oung baillie. *Ignorat cetera.*

(26.) WILLIAME ROBERTSONE, notar, deponit, he being thair but ony wapnis, saw nor hard na thing bot ane tumult. And being demandit anent Andro Henderfone, deponit, that efter the Kingis Maieftie haid cryit, 'Tressoune!' And the tumult thairupone arryng, the said deponer wes standand at the foir 3ett, with young Tallybardin and his ferwandis, quha ischewing in at the 3ett to relewe the King, the deponer, ane schort space thairefter, followit in to the clofe; the said Lairdis feruandis standing togidder thair. Saw the Maister of Gowrie, lyand deid, at the fute of the turnepyke; quhair, ane schort quhyle thairefter, he saw the said Andro Henderfone cum out of the said turnepyk, ower the Maisteris belly: And he inquiring at him, 'Chalmerlane, Jefus! quhat menis the mater?' Quha maid him na anfuier. And as the deponer rememberis, Johne Murray of Arbeny, and wtheris quhome the said Johne can tell wes present thair. *Ignorat cetera.*

THE Examinatouris Ordanis the Clerk to writt, with all diligence, for the said Johne Murray.

(27.) WILLIAME STENESONE deponit, at the ringing of the bell, he com befor the ludgeing, with ane fuord; and entering to the 3earde, saw George Craiggingailt with ane tua-handit fuord, and wtheris nychtbouris; at quhilk tyme, James Boig cryit ower ane wyndo, 'Away hame! 3e will be all hangit.' And depairting, he saw standing in the entrie at the foir 3ett, stepping the entrie with drawin swordis, Johne Rentoull, Thomas Biffett, with wtheris of my lordis fervandis. Hard Violet Ruthuene ery to the rounnd,⁴ 'Bludie Tratouris, that hes mordreift thai innocentis! Grene-coittis!'

(28.) ARCHIBALD STEIDMAN deponit, that he being enming furth of Archibald M^cBrekis, quhair Andro Ray, baillie, meiting with him, commandit him to ryng the commoune bell; quhilk he did. Com nocht thair. *Ignorat cetera.*

(29.) BLAISE POWRIE deponit, that he being sitting at Thomas Foulis buyth wyndo, he saw the Duik and the wmq^{le} Erle of Gowrie cum furth at the foir 3ett. Quhilk Erle of Gowrie wes putt per force ane litill space wp the calfay; and befyde Archibald M^cBrekis, the wmq^{le} Erle of Gowrie drew his fuordis, and com bak agane, fordwart to the ludgeing, and enterit thairat: At the quhilk tyme, he deponit, he depairtit hame. Knewis na forder.

(30.) JONET ELDER, spous of the said Blais, being examinat and fuorne, deponit, that all the tyme of the tumult, scho wes at hir buyth dur. Alexander Ruthuene yonger com to hir, with ane drawin fuorde, and creavit for powder; quhilk scho alluterlie refusand, he perforce tuik fra hir keyis,

¹ Until.

² Without.

³ Enquired, asked.

⁴ She called up to the round or tower of the 'Ludgeing,' where the nobility then were with the King.

and rypit the buyth; quhair, he finding nane, ran away with the keyis, and he keist thame fra him wpone the callay.

(31.) GEORGE FORREST, talzeour, deponit, that at the ringing of the bell, he com with ane halbert to the ludgeing, past to the garding yearde, quhair he saw George Craiggingelt and Walter Cruikschank, baith with drawin fuordis, George being ane tua-handit fuorde. Hard George Craiggingelt cry, 'Grene-cottis! Wo worth 3ow, for 3our heir cuming, and the thing 3e haue done this day!' And ane cryit out to Walter Cruikschank, 'It wes ane evill halff leaff' and ane dryuk 3e gaiff ws this day; 3e fall hing for it.' Forder, he saw ane bering ane spar to the ludgeing; bot knawis nocht quha buir it. *Ignorat cetera.*

(32.) JAMES MAR, wryelit, deponit, that he being at the dur of his awin buyth, he saw Patrik Lamb, sawfter, bring on his schowder ane single roiff spar to the foir 3ett of the ludgeing. *Ignorat cetera.*

24 Septembris, 1600. Afoir none.

(33.) THOMAS FOULIS, fmyth, deponit, that he wes schoand Robert Brownis horfe; he saw the Erle of Gowry gang in at his awin 3ett, with tua drawin fuordis. Hard Violet Ruthuene cry, 'Bludie boitfcharis! Traturis! Grene-cottis!' He saw Johne Rentoull, Thomas Biffett and wtheris quhome he knew nocht off, the Erlis fernandis, stand in the foir entrie of the foir 3ett, with drawin fuordis; and wald nocht suffer the Prouest to enter in at the 3ett. *Ignorat cetera.*

(34.) THOMAS GREIG deponit, that he com nocht neir the ludgeing, bot saw Patrik Lamb, sawfter, bring ane spar throw the Water-gait on his awin schowder. *Ignorat cetera.*

(35.) DAVID RONALDSONE, cordiner, deponit, that he com thair with na wappyn, bot he hard Violet Ruthuene cry, 'Fy! Theiwis! Bludie boitfcheris! Wo worth 3ow, grene-cottis!' And hard Alexander Ruthuene say, 'Wo worth this day, for enir!' *Ignorat cetera.*

(36.) GEORGE DAVIDSONE, lorymer,² deponit, that for obedience of the bell, he com to the ludgeing, enterit within the clofe, bot taryit nocht. Saw Andro Blair, ferwand to the Laird of Balthyok, creave the halbert fra Robert Talzeour, quha refusit; quhairat he tuik him ane kuff.³ Hard na speches bot all cryand, 'How dois the Kyngis Maiestie?' *Ignorat cetera.*

(37.) ARCHIBALD MACBREK deponit, that befor ony cry gevin be the King, he saw the Duik, the Erle of Mar and the Erle of Gowrie standing befor the foir 3ett. Hard ane cry, lyke to the Kingis voce. He than saw Schir Thomas Erskyne enter in grippis with the Erle of Gowrie, quhair the Erle wes putt all moist on his kneis; quhairat the Erle stappit bakward all maist foirnent the deponeris hous, and thair he drew his tua fuordis, bot he culd nocht dignosce⁴ ony perfone that wes with him. The deponer in the meanetyme start in for his fuorde, and cuming furth with his drawin fuorde and dager, the Laird of Glenwrquhay said to him, 'Quhair away and the King in the ludgeing?' Quhairat he layit fra him his fuorde,⁵ and stoppit doune to the place but ony wapyn. Being interrogat, 'Quhat euill speches he hard vterit aganes his Maiestie, or his hienes fervandis?' Deponit, he hard nane, bot all cryand, 'How dois his Maiestie? Lat ws sie his face.' And thairefter, hard thame cry, 'Lat sie our Prouest! How dois our Prouest?' Hard Alexander Ruthuene say, 'It can be na war⁶ nor it is! Latt ws to the houe.' And thairwith the deponer depairtit. Knawis na forder.

(38.) HENRIE LEISE deponit, that he, at the found of the bell, com to the 3ett, and enterit within the clofe of the Erle of Gowryis ludgeing; quhair he saw Hew Moncreiff bluiding, and Alexander Ruthuene yonger cum down the Blak turnepyk. Saw Patrik Lamb, sawfter, bring in to the clofe ane roiff spar, and cast it doune thair. Hard Alexander Ruthuene cry, 'Fetche ws powder!' *Ignorat cetera.*

¹ Bad half loaf, &c.; in allusion to the scraps, or shabby fare afforded by Gowry to the King and his attendants.
² A spurrier, or spur-maker; a dealer in horse accoutrements, such as bits, bridles, &c. They were usually saddlers. Old Fr. *lorimier*.
³ A cuff, slap, or slight blow.
⁴ Recognise, distinguish. Lat. *dignoscere*.
⁵ In reference to the Proclamation against bearing arms within a certain distance of the King's person.
⁶ Worse than it is.

(39.) HENRIE BANNEWIS (Balnaves) deponit, wes in the ludgeing befor the tumult. Paft furth, at the defyre of Schir Thomas Erfkynne, to by him ane pair grene filkin fchankis.¹ Befoir his returnyng, the King had dynnit: And haiffing tauld his anfuer, he paft wp the gait; and being on the calfay he hard ane tumult; and lukiing behind him, he faw the lord of Gowrie with his fuordis in his handis, and hard all the pepill cryand, 'The King is flane!' And thairwith he paffit him² for his wapnis; and cuming doune to the foir 3ett, he faw Hew Moncreiff cuming furth: Sperit at him, 'Quhair the King wes?' Anfuerit, he knew nocht. Saw nocht the King, nor hard him fpeak any thing ower the round: And immediatlie thairefter, depairtit hame. *Ignorat cetera.*

(40.) THOMAS TALZEOUR deponit, he wes but ony wappyn. Saw Joline Rentoull and Thomas Biffett refist the Laird of Balthayok, in the entrie of the foir 3ett; and wtheris of the Erle of Gowryis fervandis, being than with thame. *Ignorat cetera.*

(41.) ANDRO JAMES deponit, he faw Patrik Lamb bring ane trie on his fchowder to the foir 3ett, and hard ane cry out of the ludgeing, 'Quhair away kneave with that trie?' Mett Hew Moncreiff cuming furth at the 3ett, bluding. Depairtit at command. *Ignorat cetera.*

(42.) PATRIK QUHYTTOK, cordiner, deponit, that he being standing on the calfay, he faw the vmq^{le} Erle of Gowrie, befyde Archibald M'Brekis hous, haiff tua drawin fuordis in his handis; and hard him fay, 'He wald fordward to his awin ludgeing.' Hard Violet Ruthuene cry wp to the place, 'Bludie boitscheouris! Tratouris! Theiwis!' and felyke evill fpeeches. *Ignorat cetera.*

(43.) PATRIK BRUCE deponit, he being on the calfay, he faw the vmq^{le} Erle of Gowrie, at his awin 3ett, all maift fall doune to the eird. Hard Violet Ruthuene cryand, 'Tratouris!' &c. *Ignorat cetera.*

(44.) ANDRO POLL deponit, at the found of the bell, he com to the ludgeing, with aue halbert; and being in the clofe, he faw Patrik Lamb, fawfter, bring in on his fchowder to the clofe, ane fpar of fir, quhilk he fett aff his fchowder to the wall, betnix the turnepyke and the feller dur. Saw Mr Thomes Cranftoun cum down the Blak turnepyk, bluding: And fua depairtit hame, at command. *Ignorat cetera.*

(45.) ANTHONE MAXTOUNE deponit, he com doune the gait with the young Laird of Tullybardin, quhen the nobill men wer fitting at thair dennar. Wes wpone the calfay, quhen ane cryit out off the round; bot knew nocht quhais voce it wes, and, as apperit to him, the cryar wes halff braithles. Saw my lord Duik, my lord Mar and the Erle of Gowry cum furth at the foir 3ett: Efter funn flugling, he faw the Erle of Gowrie gang ane pece wp the gait, quhair he hard the faid Erle fay, 'He wald gang into his awin hous.' Saw na wapnis in his handis, at the quhilk tyme he paft wp the gait, returnyng bak agane at the found of the bell but ony wapnis. He hard Violet Ruthuene, cryand, 'God latt neur ane of 3ow haue fic plantis of 3our awin!' And hard Alexander Ruthuene fay, 'Fy on 3ow, Bailleis and haill toune! Is this all the help 3e mak this day to 3our Prouest!' And fua depairtit hame, being commandit. *Ignorat cetera.*

24 Septembris, 1600. Efter none.

(46.) ALEXANDER PEBLIS deponit, that during all the tyme of the tumult, he wes lokkit in his awin hous, and lukiing out at the wyndo. Hard Thomas Biffett cryand wp to the round, 'Is my Lord of Gowrie allywe?' 'Giff he be nocht allywe, he fuld haue amendis of all that wes thairin!' And James Bower cryit wp the ellyke fpeeches. Wald nocht depairt, quhill they faw my lord of Gowrie; and ane of thame tua cryit wp, 'Grene-cottis! we fall haue amendis of 3ow!' Vagging thair handis wp, fayand, '3e fall pay for it!' Hard Thomas Elder in Balbuchtie, cry wp, for 'Ane ficht of the Erle of Gowrie.' Hard Robert Talzeour cry, 'Tratouris and theiwis, that hes flane the Erle of

¹ It appears that the whole of the royal party were dressed in green hunting-suits. Balnavis is sent to purchase green-silk stockings for Sir Thomas Erskine's dress suit.

² Perhaps for 'hame,' home.

Gowrie ! Saw Johne Rentoull, Thomas Biffett, and wtheris of the Erlis fervandis, stand in the entrie of the foir 3ett, with fuordis in their handis ; and wald nocht cum fra it. Saw ane of the Erle of Gowryis allakeyis,¹ at the entrie of the 3ett, putt ane steill bonett on the Erlis heid. Hard Violet Ruthuene and wtheris wemen cry, 'Tratouris ! Theiwis ! The Erle of Gowrie haid anew to tak meit and drynk fra hame,² bot hes nane to revenge his deid !' *Ignorat cetera.*

(47.) PATRIK LAW, tal3eour, deponit, he com na forder nor the duelling hous of Archebald M^cBrek ; quhair he, hering the nychtbouris commandit hame, be the Bailleis ; he depairtit to his awin hous : And being at the croce, he saw Alexander Ruthuene cum to the merchant-buyth of Blais Powrie and Johne Lawrie, cryand for 'Powder,' bot gatt nane. And thairefter, ane gude space, saw the said Alexander cum wp the cal3ay, and pas furth at the Hie-gait-port. *Ignorat cetera.*

(48.) THOMAS 3OUNG, tal3eour, deponit, he wes bot new cum in to the toune. Hard nor saw nathing, bot all cryand wp, for 'Ane sicht of the Kingis face ;' and 'Giff his Maiestie wes weill ?' Except, he hard Mr Alexander Bannewis, Redar, cry wp to the round ; bot tuik nocht tent quhat he said. *Ignorat cetera.*

(49.) JOHNE HENDERSONE, baxter, deponit, he cuming thair at the found of the bell, and being standing abone Archibald M^cBrekis hous, he saw ane, bering ane trie on his schowderis, to the ludgeing ; bot knawis nocht quha it wes, except be report senfyne, it wes the man that is in the irnis.

(50.) JOHNE BROUNE, wobster, deponit, he com at the found of the bell, with ane staff. Hard na thing, bot hard fum cryand, 'God fend ane drap of grace to his Maiestie !' verie pitifullie. Knewis nocht quha it wes. And sua depairtit, being commandit. *Ignorat cetera.*

(51.) JOHNE LAWRIE deponit, he com at the found of the bell. Hard na thing, bot all cryand, 'The King is weill.' And he anfuerit, 'God be thankit.' And lykewayis deponit, that quhen he cam hame, his wyff tauld him, that in his absence, his buyth-dur being lokkit, Alexander Ruthuene lap in at the buyth-wyndo, and rypit³ all the buyth for powder : Wald nocht depairt, quhill his wyff maid faith⁴ that they had na powder. Siclyke, him selff saw ane, bering ane trie to the ludgeing on his schowder ; bot knew nocht quha it wes ; and hard ane gentill man cry ower the wyndo, 'Quhair away kneawe ? Lay doune the trie !' Quhilk trie, the Baillie caufit the man cast down. And swa depairtit hame. *Ignorat cetera.*

(52.) ALEXANDER MACDUFF deponit, he com, at the found of the bell, foirnent the ludgeing, with his wapenis ; quhair he saw ane cast furth ane sklait out aff⁵ the heid of the Blak turnepyke, and fell ane tal3eour at the foir 3ett. Saw also ane mekill man bringing ane slugill roiff spar to the ludgeing, on his schowder ; but knawis nocht quha it wes. Depairtit sua sone as he wes commandit. *Ignorat cetera.*

(53.) GREGOUR MAKREGOUR, skynner, deponit, he saw the Erle of Gowrie gang bak fra his awin ludgeing, foirnent Neill Robertsonis hous, quhair he than drew furth twa fuordis, and Mr Thomas Cranstoune drew ane fuorde, and pass in togidder at the 3ett. Hard ane cry out at the over⁶ round, 'Tressoun !' Bot knawis nocht quhais voce it wes. Saw Patrik Lamb, sawster, bring ane spar on his schowder to the hous. *Ignorat cetera.*

(54.) JOHNE BROUNE, notar, deponit, that he saw my lord Duik and my lord of Gowrie cuming furth at the 3ett ; and spering, 'Gif his Maiestie com furth ?' And gaiting word that his Maiestie wes nocht cum furth, they wer altogidder at my lord of Gowryis 3ett ; and 'Tressoun !' being cryit furth at ane skoir wyndo, that luikis to the Water-gait, Schir Thomas Erskyne tuik my lord of Gowrie be the gorget, and sayd, 'O Tratour ! This is thy deid !' Or the lyke terme. And thairefter, they being sinderit, my lord of Gowrie pass wp the gait, and haiffing tua fuordis in his hand, befor Duncane Robertsonis hous, sayd, 'He wald nocht tary furth of his place, his Maiestie being thair, and Tressoun thairintill !' And thairefter, the deponer depairtit hame to his hous ; and com doune agane with ane

¹ A footman, or servant, a lacquey. O. Fr. *lacquais*.
oath, or 'faith and troth.'

² From, off.

³ Him ?

⁴ Ransacked.

⁵ He took her

⁶ Upper.

halbert, and staid befor the zett of the place, quhill his Maiestie patt furth hes hand at the fayd wyn-do, and fayd, 'I am weill.' Thairefter, the said Johne anfuerit, 'Praised be God;' and past hame. *Ignorat cetera.*

(55.) JOHNE GAW, merchant, deponit, he com thair at the found of the bell, bot tareyit nocht ane mahnd of ane hour. *Ignorat.*

(56.) GEORGE HUNTER deponit, he wes that day in the place of Kynnard. *Ignorat.*

(57.) PATRIK FLEMING, merchant, wes nocht that day in the toune. *Ignorat.*

(58.) WILLIAME HALL youngar, nocht thair. *Ignorat.*

(59.) MALCOLME HALL, baxter, com nocht. *Ignorat.*

(60.) JAMES BLAIR, merchant, deponit he com thair, bot tareyit nocht. *Ignorat.*

(61.) ROBERT EDUARD deponit, he wes thair, bot tareyit nocht. *Ignorat.*

(62.) ROBERT BLAKWOD deponit, he wes all the tyme fleipand. *Ignorat.*

(63.) JOHNE ROBERTSONE, merchant, was thair, and depairtit at command of the Bailles. *Ignorat.*

(64.) JOHNE PULLOUR, merchant, wes nocht thair. *Ignorat.*

(65.) JAMES LAFREISE deponit, he wes nocht in the town that day. *Ignorat.*

(66.) THOMES CRAMBY, flesour, wes all that day in Strowyhill. *Ignorat.*

(67.) JOHNE COVENRIE com nocht furth of his maisteris hous. *Ignorat.*

(68.) JAMES IRLAND com at the found of the bell; bot depairtit, fa fume as he wes commandit be the Bailles. *Ignorat.*

25 Septembris, 1600. Befoir none.

THE perfonis following wer examinat wpone the preeiding Artiklis, and fuorne; quha deponit, That thai that cam to the ludgeing, tareyit nocht thair, bot depairtit in all haift, at command of the Bailles and clerk; and fua knew nathing: And the wther pairt that followis, wes nocht in the toune, as is heirefter devydit.

(69.) ANDRO GOW, talzeour, wes in the toune, bot com nocht.

(70.) HENRIE TALZEOUR wes thair, bot tareyit nocht.

(71.) ALEXANDER MONCREIFF com befor the ending. *Ignorat.*

(72.) WILLIAME MERSAR wes thair. *Ignorat.*

(73.) ALEXANDER MYCHELL, nocht thair. *Ignorat.*

(74.) ALEXANDER CRAIG, cordiner, thair. *Ignorat.*

(75.) ADAME ANDERSONE, nocht thair. *Ignorat.*

(76.) JAMES GILL, thair. *Ignorat.*

(77.) JAMES BLYTH, nocht thair. *Ignorat.*

(78.) PATRIK OLYPHANT, nocht thair. *Ignorat.*

(79.) ALLANE ROBERTSONE, nocht thair. *Ignorat.*

(80.) GEORGE ARCHIBALD, thair. *Ignorat.*

(81.) THOMAS GAW wes nocht thair. *Ignorat.*

(82.) JOHNE PITCARNE wes nocht thair, wes feik. *Ignorat.*

(83.) JOHNE THOMSONE, flescher, wes in Dunkeld, com nocht hame quhill the morne thairefter. *Ignorat.*

(84.) THOMAS JOHNESTOUNE, wobster, cam nocht fua far doune. *Ignorat.*

(85.) ROBERT LETHAME wes nocht thair. *Ignorat.*

(86.) ROBERT THOMESONE, feik, nocht thair. *Ignorat.*

(87.) THOMAS RYND com nocht neir the ludgeing. *Ignorat.*

(88.) THOMAS ELGYNE wes flepand. *Ignorat.*

(89.) SAMPSONE MAR, nocht thair; except he past hame for his fuord and com nocht bak. *Ignorat.*

- (90.) ANDRO THOMESONE, nocht thair. *Ignorat.*
 (91.) PATRIK BONER wes nocht in the toune. *Ignorat.*
 (92.) ROBERT MURRAY wes in Collace. *Ignorat.*
 (93.) MATHO GALGEAR wes thair but ony wapnis. Hard na thing. *Ignorat.*
 (94.) GEORGE GOUNG wes nocht thair. *Ignorat.*
 (95.) JOHNE NEVING wes thair, tareit nocht. *Ignorat.*
 (96.) ALEXANDER ADAMSONE wes in Glesgow. *Ignorat.*
 (97.) ALEXANDER SMYTH com thair at the found of the bell. Past away at command of the Kingis mouth, and his fervandis. *Ignorat cetera.*
 (98.) PATRIK DRUMMOND wes nocht in the toune. *Ignorat.*
 (99.) JAMES BANNEWIS wes nocht thair. *Ignorat.*
 (100.) GEORGE HORNE deponit, he wes in Faulkland. *Ignorat.*
 (101.) ROBERT STENESONE wes in the Meirnis. *Ignorat.*
 (102.) DUNCANE FORRESTER, nocht thair. *Ignorat.*
 (103.) MATHO CHAIP, nocht thair, nor in the toune.
 (104.) THOMAS WILSONE wes nocht thair. *Ignorat.*
 (105.) ARCHIBALD GOUNG, nocht thair. *Ignorat.*
 (106.) JAMES GOUNG, in the Querrell (*quarry*). *Ignorat.*
 (107.) JOHNE ELDER, nocht thair. *Ignorat.*
 (108.) JOHNE DRUMMOND deponit, he was in the toune; com with ane staff, bot nocht sua far doune as the ludgeing. *Ignorat.*
 (109.) ANDRO RAMSAY, sleping all the tyme. *Ignorat.*
 (110.) ALEXANDER ADAME, feik, nocht thair. *Ignorat.*
 (111.) HENRIE SCHERPE wes nocht thair. *Ignorat.*
 (112.) JOHNE GREIFF, in the malte-barne. *Ignorat.*
 (113.) ALEXANDER CARRINWATH com nocht sa far doune. *Ignorat.*
 (114.) JOHNE ANDERSONE wes in Wigtoun. *Ignorat.*
 (115.) THOMAS CRE com nocht sua far doune, being halff deid quhen he hard the King wes slane: Bot heiring his Maiestie wes weill and faiff, he prafit God and past hame. *Ignorat cetera.*
 (116.) ANDRO KEIR com nocht thair. *Ignorat.*
 (117.) JAMES PATTOUN, nocht thair. *Ignorat.*
 (118.) ADAM Keltie, sleping. *Ignorat.*
 (119.) WILLIAME JOHNSTOUNE, nocht thair. *Ignorat.*
 (120.) JOHNE RODGIE, nocht thair. *Ignorat.*
 (121.) ALEXANDER MONCREIFF wes in Auchtergavin. *Ignorat.*
 (122.) ADAME WILSONE cam nocht sa far doune. *Ignorat.*
 (123.) PATRIK FLEMING, notar, wes thair; hard na thing bot all men lamenting the Kingis estait bevelie. Had na wapnis. *Ignorat.*
 (124.) PATRIK WILSONE wes thair; hard na thing, bot saw the Magistratis putting away the pe-pill. *Cetera ignorat.*
 (125.) JOHNE LAMB, wobster, nocht thair. *Ignorat.*
 (126.) STEVIN BLAK, nocht thair. *Ignorat.*
 (127.) MATHO ALLANE com nocht sua far doune. *Ignorat.*
 (128.) JOHNE RYCHIE, nocht thair. *Ignorat.*
 (129.) ANDRO GELLATLIE, hering the bell, past to the lit-hous (*dye-house*) quhair his wyffe wes, for the keyis, to get ane wapin; and befor he com thair all wes stenscht. *Ignorat.*
 (130.) ROBERT NARNE, talzeour, deponit, that he wes in Mukerfie. *Ignorat.*

(131.) ALEXANDER FARIE, decane of the Walcaris (*fullers*), deponit, he wes in the wod of Methuene. *Ignorat.*

(132.) ROBERT BROUN deponit, at the found of the bell, he com to the ludgeing with ane sword; quhair he saw Hew Monereiff cum forth bluiding, with ane drawin fuorde. *Ignorat cetera.*

(133.) DONALD JOHNESTOUNE deponit, all the pepill wes returning hame befor he com, and he returnit with the rest. *Ignorat.*

(134.) WILLIAME DOG deponit, he wes in Cragy. *Ignorat.*

(135.) THOMAS HALL com nocht neir the ludgeing. *Ignorat.*

(136.) DONALD CORNELL wes in the Eifter Rynd. *Ignorat.*

(137.) STEPHANE PHILP deponit, he wes nocht thair quhill the Kingis depairtour. *Ignorat.*

(138.) ROBERT GRANT hard the bell and com nocht. *Ignorat.*

(139.) JAMES MAXTOUN wes cumand with his halbert; and meiting Oliuer Young baillie, he commandit him bak, or than he fuld brek his heid! *Ignorat.*

(140.) JOHNE DRUMMOND com at command of the bell; and depairtit suddandlie at command. *Ignorat cetera.*

(141.) GEORGE DIXSOUN wes thair; depairtit at the first command that wes gevin. *Ignorat cetera.*

25 Septembris, 1600. Efternone.

(142.) DIONEIS CONQUEROUR elder hard the bell, bot com nocht thair. *Ignorat cetera.*

(143.) GAVYN DALZELL wes in Dalzell. *Ignorat.*

(144.) THOMAS LISK, hering the bell, com with ane halbert; and at the first command that wes givin be the bailleis, he depairtit. *Ignorat cetera.*

(145.) CHARLIS QUIHTE wes in the toune and cum nocht. *Ignorat.*

(146.) JOHNE SMYTH, maltman, (wes) in the toune, com nocht. *Ignorat.*

(147.) WILLIAME DUNCANE, skynner, com with ane fuord. *Ignorat.*

(148.) JOHNE DYKIS com als far as Archibald M'brekis, with ane fuord; and at command of Andro Ray baillie, depairtit. Com na forder. *Ignorat cetera.*

(149.) DAVID GRANT com with Thomas Gaw to Duncane Robertsonis round, quhair they tareit all the tyme. *Ignorat.*

(150.) PATRIK STEILL, hering the bell, quhen he wes fchering (*reaping*) in the Moirtoun-hauch, com in to the toune, quhen all the tumult wes ceifit. Cuning foirneut Gabriell Merfaris, saw Oliuer Young and Andro Ray bailleis, commanding all hame. They commandit him, and he obeyit. Com nocht to the ludgeing of all (*at all, ava*). *Ignorat cetera.*

(151.) ROBERT YOUNG cum to the ludgeing; past away at command of the bailleis. *Ignorat cetera.*

(152.) ADAM GRAY wes at his litt-fat (*dying-vat*); hard the bell; com nocht. *Ignorat.*

(153.) PETER CRAIGDELIE com nocht thair. *Ignorat.*

(154.) ROBERT FLEMING wes in Gavyne Dalzellis. They lokkit the 5ettis, and he gat not furth. *Ignorat.*

(155.) JOHNE BOIO yonger wes in the wod of Methuene. *Ignorat.*

(156.) THOMAS ARCHER com na forder nor the croce. *Ignorat.*

(157.) ROBERT RUTHIRFURDE wes in the walk-mylne (*fulling-mill*). *Ignorat.*

(158.) ALEXANDER MAISSOUN cam na furder nor the Salt mercat. *Ignorat.*

(159.) WILLIAME RUTHVENE, ane of the maris (*town officers*), wes in Langforgoun, summondng ane Assyse. Foirknew na thing. *Ignorat.*

(160.) ALEXANDER MAXTOUN, cuming doune to the ludgeing, be the gait, wes commandit hame, be the bailleis and young Tullybardin. *Ignorat.*

(161.) JOHNE BURRY cam nocht sua far doune. *Ignorat*; and but armour.

- (162.) ANDRO GRANT wes in the South-ferry of Portincraig. *Ignorat.*
 (163.) HENRY BROUNE, notar, cuming thair, wes commandit hame. *Ignorat.*
 (164.) JOHNE BROUNE, wobster, hard the bell; com nocht furth. *Ignorat.*
 (165.) WILLIAME McBEITH wes in Forgoune at ane brydall. *Ignorat.*
 (166.) JOHNE EDMUND wes in Dundie; and being interrogit 'Gif he saw Johne Lamb sone to Robert Lamb, merchant, thair?' Deponit he saw him thair tua dayis ofbefoir, bot nocht that day.
 (167.) GEORGE DRUMMOND com thair, quhen the bailleis wes discharging all away. Hard na evill speches. *Ignorat.*
 (168.) THOMAS COK wes lyand feik. *Ignorat.*
 (169.) JOHNE WENTOUNE wes in the North Inche. Enterit nocht in the toune. *Ignorat.*
 (170.) WALTER BURNHILL came nocht sua far doune. *Ignorat.*
 (171.) JAMES DONALDSONE com na forder nor the Salt mercat; with armour. *Ignorat.*
 (172.) JAMES LAMB wes reslaving collis (*coals*) in the South Inche. Enterit nocht in the toune. *Ignorat.* And because he culd not gait entres in at the Port, he causit the horse leid the collis throw the Inche, throw the Lang-calfay, the New-raw, Leid-syde, and to his hous.
 (173.) JOHNE COLTE, merchant, com nocht. *Ignorat.*
 (174.) DAVID JAKSONE yonger wes in Aberdalgie. *Ignorat.*
 (175.) ANDRO LYELL come; tareit nocht. *Ignorat.*
 (176.) DAVID MONCREIFF, baxter; com thair; past way at command of the bailleis. *Ignorat.*
 (177.) JOHNE BROUNE, tkynner, wes thair. *Ignorat.*
 (178.) ANDRO CRYSTIE, wobster, wes thair. *Ignorat.*
 (179.) JOHNE HEWAT, talȝeour, com nocht. *Ignorat.*
 (180.) JAMES HENDERSONE, baxter, cuming to the end of the Water-gait, he hard the Bailleis commanding the pepill hame; quhilk he obeyit. Com na forder. *Ignorat.*
 (181.) ROBERT BROUNE, maltman, com to the end of the gait, and na forder. *Ignorat.*
 (182.) ROBERT LIDDELL, cordiner, com at the found of the bell. The Duik bidding all, ower the round, to gang hame, he spak up agane to his lordschip, and desyrit to sie the King and the Erle of Gowrie. And his lordschip answert, 'ȝe fall sie the King.' And sua, the Kingis Maiestie, beiknyng with his hand, and commanding all to depairt, he obeyit. *Cetera ignorat.*
 (183.) JAMES SYME, baxter, wes thair; bot depairtit, sua sone as the bailleis commandit him. *Ignorat cetera.*
 (184.) JOHNE ANDERSONE yonger hard the bell, and com nocht. *Ignorat.*
 (185.) JOHNE COLTE, maiffoun, wes in Innemytie. *Ignorat.*
 (186.) JAMES SANDERIS, merchant, wes in the Stormond. Wes nocht in the toune thre dayis thairefter. *Ignorat.*
 (187.) ROBERT MURRAY yonger wes in the North Inche. *Ignorat.*
 (188.) JOHNE MERTYNE, baxter, wes cuming to the ludgeing at the found of the bell; meiting with the bailleis at the Rattoun-raw, wes commandit hame, and obeyit. *Ignorat.*
 (189.) THOMAS DOO, baxter, com nocht sua far doune. *Ignorat.*
 (190.) THOMAS SYME, talȝeour, com nocht sua far doune, be a gude space. *Ignorat.*

26 Septembris, 1600. Befoir boue.

- (191.) JOHNE MAISSOUN, nocht thair. *Ignorat.*
 (192.) JOHNE BURNET, nocht in the toun. *Ignorat.*
 (193.) PATRIK RODGIE wes in the Parkhill. *Ignorat.*
 (194.) THOMAS M'LAURENE wes feik. *Ignorat.*
 (195.) JAMES MURRAY wes thair, but ony wapnis. Tareit nocht. *Ignorat.*

- (196.) ALEXANDER RYCHERDSONE, agit, nocht thair. *Ignorat.*
- (197.) ROBERT KYNNEIR wes thair. Deponit he hard na crying, bot all for ane fycht of thair King. *Ignorat cetera.*
- (198.) THOMAS DUFF wes thair. Saw nor hard na thing; bot saw ane man, quhome he kend nocht, bringing ane jeist on his schowder, quhen he wes depairting. *Ignorat cetera.*
- (199.) ROBERT BLAIR, lister (*dyer*), nocht in the toune. *Ignorat.* Wes than working outwith the Castell-gavill-port, at ane litt-fatt.
- (200.) JAMES KEDDIE, nocht thair. *Ignorat.*
- (201.) ANDRO ALLANE, smyth, com thair; tareit nocht. *Ignorat.*
- (202.) MARCUS SCOTT com nocht. *Ignorat.*
- (203.) JOHNE RUTHUENE wes in Dunkeld. *Ignorat.*
- (204.) JOHNE DASOUN, talzeour. *Ignorat.*
- (205.) JOHNE GREGOUR, nocht in the toune. *Ignorat.*
- (206.) ADAME PAULL, nocht in the toune. *Ignorat.*
- (207.) JOHNE MURRAY, talzeour, wes in Cragy. *Ignorat.*
- (208.) ROBERT TYRIE, porter, nocht thair. *Ignorat.*
- (209.) WALTER BOIG com, bot tareyt nocht. *Ignorat.*
- (210.) JAMES CROBIE com nocht fua far down as the ludgeing. *Ignorat.*
- (211.) JOHNE ROBERTSONE, maltman, wes sleping. *Ignorat.*
- (212.) ROBERT WATSONE com nocht neir the ludgeing. *Ignorat.*
- (213.) ROBERT LAMB, wobster, wes feik. *Ignorat.*
- (214.) WILLIAME WENTOUNE com nocht. *Ignorat.*
- (215.) WILLIAME BARIOCHT, skynner, com nocht. *Ignorat.*
- (216.) WILLIAME HUNTER, couper, nocht thair. *Ignorat.*
- (217.) EWIN BURRY wes thair, efter all wes ceiffit. *Ignorat.*
- (218.) JOHNE BARIOUNE, alias McDuff, or (*ere*) he com, all wes commandit hame. *Ignorat.*
- (219.) ANDRO BURRIE com nocht fua far as to the ludgeing. *Ignorat.*
- (220.) ANDRO ROGIE wes in Lorne. *Ignorat.*
- (221.) LAWRENCE CHALMER com nocht to the ludgeing. *Ignorat.*
- (222.) PATRIK NEVING com, and at the first discharge depairtit. *Ignorat.*
- (223.) ARTHOUR LUFFRENT com nocht. *Ignorat.*
- (224.) WILLIAME ROBERTSONE com na forder nor the croce. *Ignorat.*
- (225.) JAMES GELLATLIE com nocht fra his buyth. *Ignorat.*
- (226.) WILLIAME MAXWELL wes in Skone. *Ignorat.*
- (227.) WILLIAME MALICE wes thair; depairtit incontinent. *Ignorat.*
- (228.) WILLIAME COK wes in Methuene. *Ignorat.*
- (229.) DUNCANE BROUNE wes nocht within the port. *Ignorat.*
- (230.) JOHNE BLAK wes in the Claypottis. *Ignorat.*
- (231.) PATRIK WYLIE wes lyand feik. *Ignorat.*
- (232.) GEORGE M'GREGOUR elder, nocht in the tonne. *Ignorat.*
- (233.) JAMES BISSETT wes in his hous, quhair his wyff wes lyand feik: and giff he had cum furth, his wyff wald haue gane lycht.¹ *Ignorat.*
- (234.) JOHNE SCHERAR, lyand feik. *Ignorat.*
- (235.) THOMAS NYCOLL, notar, wes in the toune; hard the bell, bot com nocht neir the ludgeing. *Ignorat.*
- (236.) ALEXANDER GRANT, merchant, wes in Glesgow. *Ignorat.*

¹ Delirious; the delirium or 'light-headedness' attending fever, &c.

(237.) WILLIAME WILLIAMESONE, baxter, com lang efter the ringing of the bell ; and at his cuming, they wer all depairting. *Ignorat.*

(238.) ALEXANDER ROBERTSONE hard the bell, bot com nocht. *Ignorat.*

(239.) ARCHIBALD BROUNE, at the found of the secund ringing of the bell, cuming to the place quhair the tumult wes, saw the bailleis commanding all hame ; he depairtit. *Ignorat cetera.*

(240.) JOHNE HENDERSONE, baxter, wes in Rait. *Ignorat.*

(241.) JOHN LAYNG, maltman, being gating collis¹ in the South Inche, at the found of the bell : Tareit na langer at the hous, nor (*than*) he hard his Maieftie say, ‘ Gang hame all ! I am weil ! ’ *Cetera ignorat.*

(242.) JOHNE LENDELL, baxter, hard the bell ; he and Williame Scherpe, sittand in Gabriell Merfaris laich feller, quhair of they steikit² the dur, and they culd nocht gait furth. *Cetera ignorat.*

(243.) WALTER JOUNG, baxter, hering the bell, com to the croce ; and hering the tumult wes at the Erle of Gowryis lodgeing, he com thair ; and meiting all the pepill returning hame, being comandit by the bailleis, he also returnit. *Ignorat cetera.*

(244.) JOHNE KYNLOCH, tailzeour, wes thair at the found of the bell, bot tareit nocht ; haid na wapnis. *Ignorat.*

(245.) WILLIAME CLERK wes meiting³ collis all the tyme, in the South Inche. *Ignorat.*

(246.) THOMAS DRUMMOND, skynner, wes in the Moirtoune. *Ignorat.*

(247.) PATRIK PRIOUR, baxter, hering the bell, com to the ludgeing ; fua fone as the bailleis comandit the pepill hame, he depairtit. *Ignorat.*

(248.) JAMES FARGUSONE, baxter, com nocht to the ludgeing, quhill all wes depairting hame. *Ignorat cetera.*

(249.) THOMAS NYCOLSOUN, baxter, wes lang in cuming ; mett all the pepill returning hame, and he past na forder. *Ignorat.*

(250.) JOHNE JAK, belman, wes nocht neir the ludgeing he ane gude space. *Ignorat.*

(251.) ANDRO GIB wes fleping. *Ignorat.*

(252.) THOMAS SMYTH com nocht thair. *Ignorat.*

(253.) ROBERT CUDBERT, nocht thair. *Ignorat.*

(254.) ANDRO WILSONE, baxter, hering the bell, hard that thair was ane tumult of pley⁴ at the Erle of Gowryis ludgeing. Cuming thair, wes incontinent comandit hame be the bailleis, quha obeyit. *Ignorat cetera.*

(255.) ANDRO MALCOLME elder, baxter, wes in the South Inche all the tyme ; ane man of thre-fcoir ten yeris of age. *Ignorat.*

(256.) JOANE BEIRNE, skynner, of the ellyke age, wes nocht thair. *Ignorat.*

(257.) ANDRO DONALDSONE, merchant, hering the bell, wes cuming to the ludgeing ; but mett all pepill returning bak. Past na forder. *Ignorat.*

26 Septembris, 1600. Efter none.

(258.) JAMES STOBIE, skynner, com nocht out of his house. *Ignorat.*

(259.) WILLIAME ROS, at the Charter-hous-3ett, wes fchering out of the toune, and culd nocht gait entres at the port. *Ignorat.*

(260.) JAMES TYRIE, com thair, immediatlie befor the ceiffing of the tumult, and na foner. *Ignorat.*

(261.) JOHNE KEMPIE, talzeour, com nocht thair. *Ignorat.*

(262.) GEORGE LAMB, baxter, deponit he wes in Dundie, all the nycht of befor ; bot come to the toune befor xij houris at none : Com nocht out of his hous to the ludgeing, at na tyme of the tumult. Being interrogat, ‘ Giff he saw John Lamb, fone to Robert Lamb in Perth, in the toune of Dundie

¹ Getting coals.

² Shut, locked.

³ Measuring.

⁴ A tumultuous broil or quarrel.

the day of thair departour?' Deponit, the said Johne Lamb led George Wodis horfe to the Port of Dundie, be four houis in the mornynge; and he left the said Johne thair behind him. *Ignorat cetera.*

(263.) WILLIAME HAY, litfter, wes in the toune, bot com nocht to the ludgeing. *Ignorat.*

(264.) DAVID JAKSONE elder wes fchering befylt Balhouffie, and befoir he com in to the toune, the Kyngis Maieftie wes ryding away. *Ignorat.*

(265.) WILLIAME HAMMILTOUNE, merchant, com nocht quhill the bailleis wes commanding all the pepill hame; and he obeyit amangis the rest. *Ignorat cetera.*

(266.) DAVID DRUMMOND, meffinger, deponit, he com thair at the found of the bell; tareyit na langer nor he hard the pepill commandit away. *Ignorat cetera.*

(267.) ALEXANDER CHALMER, maltman, wes in the Banchellis. *Ignorat.*

(268.) THOMAS BONAR, merchant, wes thair; bot knawis na thing.

(269.) THOMAS CATIRO wes in the baick-hous, and mycht nocht win furth, except he had tint his haill baiking. *Ignorat.*

(270.) ALEXANDER FORBES, faidler, at the found of the bell, com thair with his wapnis. Hard na thing, bot ane command gevin to the bailleis to caus the pepill gang hame; and he incontinent, at the hering thair of, obeyit, and pait hame. *Ignorat cetera.*

(271.) WILLIAME GLES, faidler, wes thair with his wapnis; saw nor hard nathing, bot all crying for the Kingis welfair.

(272.) CRYSTIE WILSONE, baxter, com nocht furth of his hous. *Ignorat.*

(273.) ARCHIBALD GULE, talzeour, com nocht furth of his buyth. *Ignorat.*

(274.) GEORGE SYMPSONE, of thre fcoir yeris, cuming, saw the bailleis putting away the pepill. He com nocht neir. *Ignorat.*

(275.) ANDRO MALING, fkyunner, com nocht neir the ludgeing. *Ignorat.*

(276.) OLIUER CAR wes in the toune, bot com nocht thair. *Ignorat.*

(277.) GEORGE MALCOM, baxter, iij^{xx} (three score) yeris, com nocht furth. *Ignorat.*

(278.) JOHNE NEVING wes in the Ferry Portineraig. *Ignorat.*

(279.) ALEXANDER GLES, of iij^{xx} ten yeris. *Ignorat.*

(280.) ANDRO LATHANGIE. *Ignorat.*

(281.) PETIR BALMANNO, wes that haill day in Dunkeld. *Ignorat.*

(282.) JOHNE OLYPHANT, lyand bedfast. *Ignorat.*

(283.) WILLIAME M^cANDRO wes in Bachiltoune. *Ignorat.*

(284.) GEORGE JAK, baxter, (wes) in Abirbrothok. *Ignorat.*

(285.) ROBERT COK deponit, he wes drinking in Gabriell Merfaris hous, with James Liddell and James Setoune, tua of the Kingis fervandis. Eftir 'Treffoun' wes cryit, he depairtit hame. *Ignorat.*

27 Septembris, 1600. Befoir none and eftir none.

(286.) ANDRO RYND, baxter, wes all that day grinding in the mylne of Ruthuen. *Ignorat.*

ALL thir perfones on this fyde, wer in the toune, and com nocht neir the Ludgeing. *Ignorat.*

(287.) Robert Lamb,	(295.) David Gles,	(303.) Williame Houp, talzeour,
(288.) Williame Scherpe,	(296.) David Allane, fnyth,	(304.) James Ros,
(289.) David Wrycht,	(297.) Johne Pait,	(305.) Patrik Foulis,
(290.) Williame Malcolme, baxter,	(298.) Mr Thomas Mug,	(306.) Andro Merfar,
(291.) Rychard Blak,	(299.) Walter Symphon,	(307.) Johne Adamefoun,
(292.) Williame Lawder,	(300.) Patrik Jakfon, myller,	(308.) Thomas Rollok,
(293.) Johne Boig elder,	(301.) Robert Keir,	(309.) Alexander Broune,
(294.) George Wilfone,	(302.) Johne Mar, ftaibler,	(310.) Patrik Pittillo,

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| (311.) George Wod, | (321.) Williame Souter, | (331.) Williame Roddome, |
| (312.) George Adamfone, | (322.) Wm. Smythe, cordiner, | (332.) Patrik Malcome, |
| (313.) James Roberfone, fkyunner, | (323.) Thomas Stobie, | (333.) Wm. Robertfone elder, |
| (314.) Johne Monypenny, cuper, | (324.) Andro Scherpe, wobfter, | (334.) Andro Luffrent, |
| (315.) Archibald Smyth, | (325.) Thomas Souter, | (335.) Dougell McLawrene, |
| (316.) Edmund Finlafone, | (326.) Thomas M ^c Ky, | (336.) Patrik Mug, |
| (317.) Williame Ruffell, wobfter, | (327.) Andro Lowdoune, | (337.) Williame Aleifter, |
| (318.) David Donaldfone, | (328.) Luik Reid, | (338.) Henry Hall, baxter, |
| (319.) Johne Marfchell, fkyunner, | (329.) Walter Cudbert, | (339.) Johne Henryfoun, merch ^t , |
| (320.) David-Cryftie, wobfter, | (330.) Patrik Quhyte, | (340.) Williame Myller. |

THEIR perfones following wer nocht in the toune of Perth, vpon the fyft day of Auguft, 1600, viz.

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|--|---|-----------------------------|
| (341.) Alexander Wychtoun, | (346.) James Berne, | (351.) Williame Walcare, |
| (342.) James Nycoll, flabiler, | (347.) Alexander Drummond, | (352.) James Haggart elder, |
| (343.) Andro Mathow, | (348.) Finla M ^c inneis, | (353.) Alexander Merfer, |
| (344.) Angus Cardny, | (349.) Robert Muglie, | (354.) George Quhattene, |
| (345.) Johne Conqueriour, mer-
chand, | (350.) Johne Robertfone, mer-
chand, | (355.) Andro Fifcher. |

WE, vnder fubfcryveand, TESTIFEIS, That it is of veritie, we hard euerie thing writtin ofbefoir in this buik, according to the fingular Depofitiones of everie perfone contenit thairinto ; quhilkis wer particularlie fuorne and examinat, in our prefenffes, in the ftraeft maner as we culd devyfe, wpone everie artikill contenit in this buik. Subfcryuit with our handis, At PERTH, the ellevint day of October, the yeir of God J^m. and fex hundred yeiris.

OLIPHIE GOUNG, Bail⁵e,

A. RAY, Baliius,

M. P. GALLOUAY.

THOMAS JHONESTOUNE, bail⁵e,

JAMES DRUMMOND,

ROBERT ANDERSON,

ANDRO ARNET, w^t my hand,

ROBERT MATHOW, w^t my hand,

} Witnes to be 24, 25 and 26 dayes
Examination.

WALTER GRAY, w^t my hande,

M. WILLIAM COWPER,

HENRICUS ELDER, Notarius,

Scriba communitatis burgi
de Perth, manu fua.

NO. IV.

THE EARLE OF GOWRIES CONSPIRACIE againft the Kingis Maieftie of Scotland, At Saint John-ftoun, vpon Tuefday the fift of Auguft, 1600.

LONDON. Printed by Valentine Simmes, dwelling on Adling-hill, at the Signe of the White Swanne, 1600.¹

[The prefent Reprint of what has been termed ‘ The King’s Narrative,’ and ‘ The Account published by authority,’ has been made from the Earliest Eng-

¹ Preserved in the Library of the Faculty of Advocates. Simmes printed another Edition in 1603, after King James ascended the English throne, small quarto, pp. 32, in Roman letters, a copy of which the Editor saw, penes David Laing, Esquire.

lish Edition, of 32 pages small quarto, Black Letter. There were likely at least two Editions printed at Edinburgh, by Robert Waldegrave and by Robert Charteris, immediately after the Trials for the Conspiracy took place; in order to quiet, as well as to satisfy the public mind, which had been much inflamed by Mr Robert Bruce and the other refractory Ministers of Edinburgh; who greedily availed themselves of this opportunity of expressing their incredulity, by way of avenging themselves against the King, for his obstinate adherence to Episcopacy, &c. In Herbert's Edition of *Ames's Typographical Antiquities*, p. 1521, notice is taken of an Octavo (mistake for small Quarto) Edition, at Edinburgh, printed by Robert Charteris 1600, 'cum privilegio Regio;' three sheets and a half. As Ames quotes *Harl. Miscel.* III. 76, where this Tract is inserted, it is likely that he never saw the original, which is so extremely scarce, that a copy cannot now be traced. Lord Hailes reprinted this Tract, as the first number of an intended series of Papers relative to the Gowrie Conspiracy; but either he did not live to finish this work, or, more probably, he abandoned the undertaking, owing to the want of proper materials. His lordship says, 'This Account was published by authority, at Edinburgh, about the beginning of September 1600; for Nicolson, Queen Elizabeth's agent in Scotland, sent it to Sir Robert Cecil, on the 3d of September 1600. *Paper Office*.' He also remarks, that 'it appears by a Letter from Sir John Carey, Governor of Berwick, to Cecil, 4th of September 1600, that some TREATISE had been published in Scotland, IN VINDICATION OF GOWRIE. *Paper Office*.' This last-mentioned Treatise must have been privately circulated in MS., or, if printed, the impression had been seized at press. Not a vestige of the Tract remains. Even the Title, or an abstract of the facts and arguments, is unnoticed by any of the numerous contemporaneous writers who profess to espouse the cause of the Earl of Gowrie. The Rev. James Scott, in his History, 8vo, Edinburgh, 1818, p. 5, quotes a MS., in the Library of the Society of Antiquaries, Perth, which he terms 'Stewart's Collections,' in which it is stated, that 'after the Earl of Gowrie's death, a small Treatise was published in his Vindication, but was suppressed. Some copies of it were, however, preserved; and Sir Robert Douglas has said, that his brother Sir William had seen one of these Vindications, and that also several old gentlemen in Perthshire had owned that they had seen it.' On this subject, it shall only farther be noticed, that among the Correspondence of the indefatigable George Paton, one of the profoundest and most meritorious of our Scottish Collectors, (a pretty large portion of which has fortunately been recovered and preserved by the Faculty of Advocates, Edinburgh,) a Letter occurs, addressed by Mr Paton to the eminent Antiquary, Richard Gough, Esquire, 27th May 1782, from which the following passage is extracted. 'Did you ever see the counter-

part or answer to K. James's Account of E. Gowrie's Conspiracy, or that published by authority? The answer I am assured was printed, but suppress; altho' a copy or so may be preserved; which, if discovered, might throw some light on that dark passage of our Scots History. E. Cromarty's credulity and weakness of judgment is conspicuous in his account of that Tragedy, by his narrating the influence of spells, and notice of a few pretended magic characters, written on parchment or paper, found in the unhappy Lord's pocket; which were nothing else than a few *chymical* characters, known to every practitioner now-a-days in that art; which science both the brothers acquired in their travels thro' Italy.' It is almost unnecessary to add, that even Mr Gough could not afford any information on the subject.]

A DISCOURSE of the vnnaturall and vile Conspiracie, attempted against his Maiesties person, at Saint Johnstoun, vpon the fift day of August, being Tuesday, 1600.

His Maiestie hauing his residence at Falkland, and being daily at the buck-hunting (as his use is in that season) vpon the fifth day of August, being Tuesday, hee raide out to the parke, betweene fixe and seuen of the clocke in the morning, the weather beeing wonderfull pleasant and seasonable. But, before his Maiesty could leape on horse back, his Highnesse being now come downe by the equerie; all the huntmen, with the hownds, attending his Maiestie on the green, and the Court making to their horses, as his Highnesse selfe was, Master Alexander Ruthwen, second brother to the late Earle of Gowrie, being then lighted in the town of Falkland, hasted him fast downe to overtake his Maiestie before his on-leaping, as hee did. Where meeting his Highnesse, after a very lowe curtesie, bowing his head vnder his Maiesties knee, (although hee was neuer wont to make so lowe courtesie) drawing his Maiestie aparte, hee beginnes to discourse vnto him (but with a very dejected countenance, his eyes ever fixed vpon the earth) howe that it chanced him, in the euening before, to be walking abroad about the fields, taking the ayre solitarie alone, without the towne of Saint Johnstoun, where his present dwelling with the Lorde his brother was, and there, by accident, affirmed to have recounted a base like fellow, vnkowne to him, with a cloke cast about his mouth; whom, as hee inquired his name, and what his errand was, to be passing in so solitarie a part, being from all waies; the fellow became on a sodaine so amazed, and his tongue so faultered in his mouth, that, vppen his suspitious behaviour, hee begonne more narrowly to look vnto him and examine him; and perceiving that there appeared something to be hid vnder his cloke, hee did cast by the lappes of it, and so finds a great wide pot to be vnder his arme, all full of coyned gold in great peeces; assuring his Maiestie, that it was in very great quantity. Vpon the sight whereof (as he affirmed) hee tooke backe the fellow, with his burthen, to the towne, where hee, priuately, without the knowledge of any man, tooke the fellow, and bound him in a priuy derved house; and after locked many doores vpon him, and left him there and his pot with him, and had hasted himselfe out of Saint Johnstoun that day, by foure howers in the morning, to make his Maiestie advertised thereof, according to his bound dutie; earnestly requesting his Maiestie, with all diligence and secrecie, that his Maiestie might take order therewith, before any know thereof; swearing and protesting that he had yet concealed it from all men, yea from the Earle his own brother. His Maiesties first answere was (after thanking him for his good will) that it could not become his Maiestie to meddle any waies in that matter, since no mans treasure that is a free and law-

ful subject can, by the law, appertain unto the King, except it be found hid under the earth, as this was not. Wherevnto he answered, that the fellow confessed unto him, that he was going to have hid it under the ground; but could not take leasure, at that time, to enquire any further of him. Wherevnto his Maiestie replied, that there was great difference betwixt a deede and the intention of a deede; his intention to haue hid it, not being alike as if it had bene found already hidde. Maister Alexanders answer was, that hee thought his Maiestie ouer scrupulous in such a matter, tending so greatly to his Maiesties profite; and that, if his Maiestie deferred to meddle with it, that it might be, that the Lord his brother, and other great men, might meddle with it, and make his Maiestie the more adoe. Whereupon the King, beginning to suspect that it had bene some forraine gold, brought home by some Jesuites for practising Papistes, (therewith to stirre up some new sedition, as they haue oftentimes done before,) inquired of the said Maister Alexander, what kinde of coyne it was, and what a fellow he was that carried it? His answer was, that so farre as hee could take leasure to see of them, that they seemed to be forraine strokes of coyne; and although the fellowe, both by his language and fashions, seemed to be a Scots fellow, yet he could neuer remember that he had seene him before. These speaches increased his Maiesties suspicion, that it was forraine coyne brought in by some practising Papistes, and to be distributed into the countrie, as is before sayd; and that the fellow that carried it, was some Scots Priest, or Seminarie so disguised, for the more sure transporting thereof.

Whereupon his Majestie resolved that he would send backe with the said Maister Alexander a servant of his owne, with a warrant to the Prouost and Bailiffes of Saint Johnston to receive both the fellow and the money at Maister Alexanders hand; and, after they had examined the fellow, to detain him and the treasure till his Maiesties further pleasure was knowne.

Whereat the sayd Maister Alexander stirred maruelously; affirming and protesting, that if eyther the Lorde his brother, or the Bailiffes of the towne were put on the counsaile thair of, his Majestie would gette a verie badde count made to him of that treasure; swearing, that the great loue and affection hee bare unto his Maiestie, had made him to preferre his Maiestie, in this case, both vnto him selfe and his brother. For the which seruice, hee humbly craued that recompence, that his Maiestie would take the paines once to ride thither, that he might be the first seer thereof himselfe; which being done, hee would remit to his Majesties owne honourable discretion, how farre it would please his Majestie to consider upon him for that service.

His Highnesse being stricken in great admiration, both of the vncouthnesse of the tale, and of the strange and stupide behauiour of the reporter; and the Court being already horsed, wondering at his Maiesties so long stay with that Gentleman, the morning being so faire, the game already found, and the huntsmen so long staying in the fields on his Maiestie; he was forced to breake off, only with these wordes, that hee could not now stay any longer from his sport, but that hee would consider of the matter, and, at the end of his chase, give him a resolute answer, what order hee would take therein. Whereupon his Maiestie parted in haste from him, towards the place where the game was.

Maister Alexander parting from his Maiestie very discontent, that indelayedly he raide not to Saint Johnston, as hee desired him; protesting that his Maiestie would not find every day such a choise of hunting as he had offered to him; and that he feared that his Maiesties long delay and slownesse of resolution would breede leasure to the fellow, who was lying bound, to cry, or make such dinne, as would disappoynt the secrecie of that whole purpose, and make both the fellow and the treasure to be meddled with, before any word could come from his Maiestie; as also, that his brother would misse him, in respect of his absence that morning, which, if his Maiestie had pleased to haste, he might haue prevented, arriving there in the time of his brothers and the whole townes being at the sermon; whereby his Majestie might have taken such secret order with that matter as he pleased, before their out-coming from the church. But his Majestie, without any further answering him, leaping on horse backe, and riding to the dogs, where they were beginning to hunt, the said Maister Alexander stayed still in

that place, where hee left his Maiestie; and hauing two men with him, appointed by the Earle his brother, to carry backe vnto him the certayne newes, in all hafte, of his Majesties comming (as heer-after more particularly shall in this same discourse be declared.)

He directed the one of them, called Andrew Henderfon, Chamberlaine to the faide Earle, to ride in all hafte to the Earle, commanding him, as he loued his brothers honour, that he should not spare for spilling of his horse, and that hee should advertise the Earle, that he hoped to moone his Maiestie to come thither; and that he should not yet looke for hym, the space of three houres thereafter, because of his Maiesties hunting; adding these wordes, 'Pray my Lorde my brother to prepare the dinner for us.' But his Maiestie was no sooner ridden vppe to a little hill above the little woodde, where the dogges were layde on in hunting, but that, notwithstanding the pleasant beginning of the chafe, he could not stay from musing and wondering vpon the news. Wherevpon, without making any body acquainted with this purpose, finding John Nesmith, Chirurgian, by chance riding beside him, his Maiestie directed him backe to bring Master Alexander with him; who being brought unto his Maiestie, and hauing newly directed, as said is, one of his men that was with him backe to my Lord his brother, his Majestie vnknowing or suspecting that any man living had come with him; then tolde him that he had bene aduising with himselfe, and in respect of his last wordes, so earnest with him, he resolved to ride thither for that errand in his owne person, how soone the chafe was ended, which was already begunne. Like as his Majestie, vpon the very ending of these wordes, did ride away in the chafe, the said Maister Alexander following him at his backe; no other creature being with his Highnes but he and John Hamilton of Grange, one of his Maiesties master-stablers, the rest of the Court being all before in the chafe, his Maiestie onely being cast back, vppon the staying to speake with Maister Alexander, as is before said.

The chafe lasted from about seauen of the clocke in the morning, vntill eleuen and more, being one of the greatest and forest chafes that euer his Maiesty was at: all which time, the sayde Maister Alexander was (for the most part) euer at his Maiesties backe, as is sayd. But there neuer was any stop in the chafe, or so small a delay, that the sayde Maister Alexander omitted to round his Majestie, earnestly requesting him to hasten the end of the hunting, that he might ride the sooner to Saint Johnstoun. So as, at the death of the bucke, his Maiesty, not staying vpon the curry of the diere (as his use is) scarcely took time to alight, awayting vpon the comming of a fresh horse to ride on, the greatnes of the chafe hauing wearied his horse.

But the said Maister Alexander would not suffer the King to stay in the parke where the bucke was killed, while his fresh horse, which was already sent for, was brought out of the equerie to him, (although it was not two flight-shot off betwixt the parte where the bucke was killed and his Maiesties equery); but with very importunity forced his Majestie to leap on agayne vpon that same horse, that he had hunted all the day vpon, his fresh horse being made to gallop a mile of the way to ouertake him; his Maiestie not staying so much as vpon his sword, nor while the Duke and the Earle of Mar, with diuerse other Gentlemen in his company, had changed their horse; onely saying vnto them, that hee was to ride to Saint Johnstoun to speake with the Earle of Gowry, and that he would be presently backe againe before euen.

Wherevpon some of the Court galloped backe to Falkeland as fast as they coude, to chaunge their horse, but could not ouertake his Maiestie, vntill hee came within foure miles of Saint Johnstoun. Others rid forward with their horses, wearied as they were, whereof some were compelled to alight by the way: and, had they not both refreshed their horses, fed them, and given them some grasse by the way, they had not caried them to S. Johnstoun: the cause of his Maiesties seruants following so fast, vndeired by him, being only grounded vpon a suspition they had conceiued, that his Maiesties intention of riding, was for the apprehension of the Master of Oliphant, one who had late laid downe a vile

and proud oppression in Angus. For repairing of the which, they thought that his Maiestie had some purpose for his apprehension.

But the sayde Maister Alexander, seeing the Duke and the Earle of Mar, with diuerse of the Court, getting fresh horse for following of his Maiestie, earnestly desired him that hee wold publish to his whole traine, that since he was to returne the same evening, as is afore said, they needed not to follow him; especially, that he thought it meetest his Maiesty should stay the Duke and the Earle of Mar to follow him, and that he should only take three or foure of his own seruants with him; affirming, that if any Nobleman followed him, hee could not aunswere for it, but that they would marre that whole purpose. Whereuppon his Maiestie, halfe angry, replied, that hee would not mistrust the Duke nor the Earle of Mar in a greater purpose than that, and that hee could not vnderstand what hinderance any man could make in that errand.

But these last speeches of Maister Alexanders made the King beginne to suspect what it should meane; whereuppon many and sundry thoughts beganne to enter into the Kings mind; yet his Maiestie could neuer suspect any harme to be intended against his Highnesse by that yong Gentleman, with whom his Maiestie had bene so well acquainted, as he had not long before bin in suite to be one of the Gentlemen of his chamber: so as, the farthest that the Kings suspition could reach to, was, that it might be that the Earle his brother had handled him so hardly, that the young Gentleman, being of a hie spirit, had taken such displeasure, as hee was become somewhat beside himselfe, which his Maiestie coniectured, as well by his raised and vncouth flaring, and continual pensiuenes all the time of the hunting, as likewise by such strange sorte of vnlkely discourses as are already mentioned.

Wherevppon the King tooke occasion to make the Duke of Lennox acquainted with the whole purpose, enquiring of him very earnestly what he knew of that yong Gentlemans nature, being his brother in law, and if he had perceiued him to be subiect to any high apprehension? His Maiestie declaring his suspition plainly to the said Lord Duke, that he thought him not well settled in his wits; alwayes desiring my Lorde Duke not to faile to accompany him into that house, where the alledged fellow and treasure was.

The Lord Duke wondered much at that purpose, and thought it very vnlkely; yet hee affirmed, that he could neuer perceiue any such appearence in that Gentlemans inclination. But Maister Alexander perceiuing his Maiesties priue conference with the Duke, and suspecting the purpose as it appeared, came to the King, requesting his Maiesty very earnestly he should make none liuing acquainted with that purpose, nor suffer none to goe with his Maiesty where hee should convoy him, but himselfe only, vntill his Maiesty had once seene the fellow and the treasure; whereunto his Maiesty, half laughing, gaue answere, that he was no good teller of money, and behooued therefore to have some to helpe him in that errand. His reply was, that he would suffer none to see it but his Maiesties self at the first, but afterwarde he might call in whom hee pleased.

These speeches did so increase his suspition, that then hee beganne directly to suspect some treasonable deuise. Yet many suspitions and thoughts ouerwhelming one, euery one another in his mind, his Maiestie could resolve upon no certain thing, but rode further on his iourney, betwixt trust and distrust, being ashamed to seem to suspect, in respect of the cleanness of his Maiesties own conscience, except he had found some greater ground. Maister Alexander still pressing the King to ride faster, though his owne horse was scarcely able to keepe company with the King for wearines, hauing ridden with him all the chase before. The King being come two mile from Falkland, Maister Alexander stayed a little behinde the King in the way, and posted away the other seruant Andrew Ruthuen to the Earle his brother, aduertising him how farre the King was on his way to come thither. Then how soone soeuer the King came within a mile of (Saint) Johnstoun, he sayde to his Maiesty that he would post in before, to aduertise the Erle his brother of his Maiesties comming: who, at his incomming to him, was sitting at the midst of his dinner, neuer seeming to take knowledge of the Kings comming

til his brother told it him, notwithstanding that two of his seruants had aduertised him thereof before. And, immediately vpon his brothers report, rising in haste from the boord, and warning all the seruants and friendes to accompany him to meete his Maiestie; who met him with three or foure score men, at the end of the Inlbe, his Maiesties whole traine, not exceeding the number of fifteene persons, and all wythout any kinde of armour, except swordes, no not so much as daggers or whingears; his Maiestie stayed an houre after his comming to the sayd Erles lodging to Saint Johnstoun before his dinner came in. The longfomenes of preparing the same, and badnes of the cheere, being excused vpon the fouldaine comming of his Maiestie, vnllooked for there.

During which time, his Maiesty enquired of Maister Alexander, when it was time for him to goe to that priuate house, about that matter whereof he had informed him; who answered, that all was sure enough, but that there was no haste yet for an houre, til the King had dined at leisure; praying his Maiesty to leaue him, and not to be seene to round with him before his brother, who, hauing missed him that morning, might thereupon suspect what the matter should meane. Therefore his Maiesty addressed him to the Earle, and discoursed with him vpon sundry matters; but could get no direct answer of him, but halfe wordes, and imperfect sentences.

His Maiesty being set downe to his dinner, the said Earle stood very pensue, and with a dejected countenance, at th' end of his Maiesties table, oft rounding ouer his shoulder, one while to one of his seruants, and another while to an other; and oft times went out and in to the chamber. Which forme of behaviour he likewise kept before the Kings sitting downe to dinner; but without any welcoming of his Maiestie, or any other hearty forme of entertainment. The Noblemen and Gentlemen of the Court that were with his Maiestie standing about the table, and not desired to dine (as the use is when his Maiesty is once set downe, and his first seruice brought up) vntill his Maiesty had almost dined. At which time, the Earle conveyed them forth to their dinner, but sate not downe with them himselfe (as the common maner is), but came back, and stood silent at the end of the Kings table, as he did before; which his Maiesty perceiuing, beganne to entertayne the Earle in a homely manner, wondring hee had not remayned to dyne with his ghests, and entertayne them there.

His Maiestie being ready to rise from the table, and al his seruants in the hall at their dinner, Maister Alexander standing behinde his Maiesties backe, pulled quietly vpon him, rounding in his Maiesties eare, that it was time to goe, but that he would faine haue bene quit of the Earle his brother, wishing the King to send him out into the hall to entertayne his ghests. Whereupon the King called for drinke, and, in a merie and homely maner, sayd to the Earle, that although the Earle had seene the fashion of entertainment in other countries, yet he would teach him the Scottish fashion, seeing hee was a Scottish man; and therefore, since he had forgotten to drinke to his Maiesty, or sit with his ghests and entertayne them, his Maiesty would drinke to him his owne welcome, desiring him to take it forth and drinke to the rest of the company, and in his Maiesties name, to make them welcome. Whereupon, as he went forth, his Maiesty rose from the table, and desired Maister Alexander to bring Sir Thomas Erskine with him; who desiring the King to goe forward with him, and promising that hee should make any one or two follow him that hee pleased to call for, desiring his Maiesty to command publikely that none should followe him. Thus the King, accompanied onely with the sayd Maister Alexander, comes forth of the chamber, passeth through the ende of the hall, where the Noblemen and his Maiesties seruantes were sitting at theyr dinner, vp a turnepeecke, and through three or foure chambers, the sayde Maister Alexander euer locking behind him euery doore as he passed; and then, with a more smiling countenance than he had all the day before, euer saying he had hym sure and safe enough kept; vntill at the last, his Maiesty passing through three or foure sundry houses, and all the doores locked behind hym, his Maiesty entred into a little study, where hee sawe standing, wyth a very abased countenance, not a bondman, but a freeman, with a dagger at his girdle. But his Maiesty had no sooner entred into that little study, and Maister Alexander with him, but Maister Alexan-

der locked to the study doore behinde him; and at that instant, changing his countenance, putting his hatte on his head, and drawing the dagger from that other mans girdle, held the poynt of it to the Kings brest, avowing now that the King behoued to be in his will, and vsed as he list; swearing many bloody oths, that if the King cryed one word, or opened a window to looke out, that dagger should presently go to his heart; affirming, that he was sure that now the Kings conscience was burthened, for murdering his father. His Maiefty, wondring at so sodaine an alteration, and standing naked, wythout any kinde of armour but his hunting horne, which he had not gotten leysure to lay from him, betwixt these two traytors which had conspyred his life, the sayd Maister Alexander standing (as is sayd) wyth a dagger in his hand, and his sworde at his side; but the other trembling and quaking rather like one condemned, than an executioner of such an enterpryse.

His Maieftie begunne then to dilate to the saide Maister Alexander, how horrible a thing it was for him to meddle with his Maiesties innocent blond; assuring him, it would not be left vnreuenged, since God had giuen him children and good subiects; and if they neither, yet God would raise vpp stocks and stones to punish so vile a deede.

Protesting before God, that he had no burthen in his conscience for the execution of his father; both in respect that, at the time of his fathers execution, his Maiefty was but a minor of age, and guyded at that time by a faction which ouerruled both his Maieftie, and the rest of the cuntry; as also, that whatsoeuer was done to his father, it was done by the ordinarie course of law and iustice.

Appealing the saide Maister Alexander vppon his conscience, how well he at al times since had deserved at the hands of al his race, not only hauing restored them to al their lands and dignities, but also in nourishing and bringing vp of two or three of his sisters as it were in his owne bosome, by a continual attendance vpon his Maiesties dearest bedfellow in her priuy-chamber.

Laying also before him the terrors of his conscience, especially that he made profession, according to his education, of the same religion which his Maieftie had ever professed: and namely, his Maiefty remembred him of that holy man, Master Robert Rollocke, whose scholler he was, assuring him, that one day the said Maister Roberts soul would accuse him, that he had neuer learned of him to practise such vnnatural cruelty: his Maiefty promising to him, on the word of a Prince, that if he would spare his life, and suffer him to go out again, he would neuer reueale to any flesh liuing what was betwixt them at the time, nor neuer suffer him to incur any harm or punishment for the same.

But his Maiesties fear was, that he could hope for no sparing at his hands, hauing such crueltie in his looks, and standing so irreuerently couered with his hat on, which form of rigorous behaviour could prognosticate nothing to his Maieftie but present extremity. But, at his Maiesties perswasive language, he appeared to be somewhat amazed; and, vncouering his head againe, swore, and protested that his Maiesties life should be safe, if he would behaue hymselfe quietly, wythout making noyse or crying; and that he would onely bring in the Earle his brother to speake wyth his Maieftie. Wherevpon, his Maiefty, enquiring what the Earle would doe with him, since (if his Maiesties life were safe, according to promise,) they could gayne little in keeping such a prisoner. His answer only was, that he could tell his Maiefty no more, but that his life should be safe, in case he behaved hymselfe quietly; the rest, the Earle his brother, whome he was going for, would tel his Maiefty at his coming. With that, as he was going forth for his brother, as he affirmed, he turnd hym about to the other man, saying these wordes vnto him, ‘I make you here the Kings keeper till I come backe agayne, and see that you keepe him vpon your owne perill;’ and therewithal sayd to his Maieftie, ‘You must content yourselfe to haue this man now your keeper, vntill my coming backe.’

With these wordes, he passeth forth, locking the doore after him, leauing his Maiefty with that man he found there before him. Of whome his Maiefty then enquired, ‘If he were appoynted to be the murtherer of him at that time, and howe farre he was vpon the counsell of that Conspiracie?’ Whose answer, with a trembling and astonished voyce and behavior, was, that, ‘as the Lord should judge him,

he was neuer made acquainted with that purpose, but that he was put in there perforce, and the doore lockt vpon him, a little space before his Maiesties comming: as indeede, all the time of the sayd Maister Alexanders menacing his Maiesty, he was euer trembling, requesting him for Gods sake, and with many other attestations, not to meddle with his Maiesty, nor to do him any harme. But because M. Alexander had, before his going forth, made the King sweare he should not cry, nor open any window, his Maiestie commanded the said fellow to open the window on his right hand, which he readily did: so that, although he was put in there to use violence on the King, yet God so turnd his heart, as he became a slave to his prisoner.

While his Maiesty was in this dangerous estate, and none of his owne seruantes nor traine knowing where hee was, and as his Maiesties traine was arising in the hall from their dinner, the Earle of Gowrie being present wyth them, one of the Earle of Gowries seruants comes hastily in, assuring the Earle his Maister, that his Maiesty was horsed, and away through the Infhe; which the Earle reporting to the Noblemen, and the rest of his Maiesties traine that was there present, they all rushed out together at the gate, in great haste: and some of his Maiesties seruants enquiring of the Porter, 'When his Maiesty went forth?' the Porter affirmed, that the King was not yet gone forth. Wherevpon the Earle looked very angerly vpon him, and sayd he was but a liar: yet turning him to the Duke, and to the Earle of Mar, said, he should presently get them sure worde where his Maiesty was; and with that, ranne through the clofe, and vppe the staires. But his purpose indeede was, to speake with his brother, as appeered very well by the circumstance of time; his brother hauing, at that same instant, left the King in the litle study, and ranne downe the staires in great haste.

Immediately after, the Earle commeth backe, running agayne to the gate, where the Noblemen and the rest were standing in a maze, assuring them that the King was gone, long since, out at the backe gate; and if they hasted them not the sooner, they would not overtake him; and, with that, called for his horse; whereat they rushed all together out at the gate, and made toward the Infhe, crying all for theyr horses: passing all (as it was the prouidence of God) vnder one of the windows of that study wherein his Maiesty was. To whom Maister Alexander very speedily returned, and, at his incomming to his Maiesty, casting his handes abroade in a desperate manner, saide, he could not mend it, his Maiestie behooued to die: and, with that, offered a garter to bind his Maiesties hands, with swearing he behooued to be bound. His Maiestie, at that word of binding, said, he was borne a free King, and should die a free King. Wherevpon, he griping his Maiestie by the wrest of the hand, to haue bound him, his Maiestie releued himselfe sodainely of his gripes: wherevpon, as hee putte his right hand to his sword, his Maiestie with his right hand seized vpon both his hand and his sword, and with his left hand clasped him by the throat, like as he with his left hand claspt the King by the throat, with two or three of his fingers in his Maiesties mouth, to haue staied him from crying. In this maner of wrestling, his Maiestie perforce drew him to the window, which he had caused the other man before to open vnto him, and vnder the which was passing by at the same time the Kings traine, and the Earle of Gowrie with them, as is saide, and holding out the right side of his head and right elbow, cryed, that they were murdering him there, in that treasonable forme: whose voice being instantly heard and knowne by the Duke of Lennox, the Earle of Marre, and the rest of his Maiesties traine there, the saide Earle of Gowrie euer asking 'what it meant?' and neuer seeming any waies to haue seen his Maiestie, or heard his voyce; they all rushed in at the gate together, the Duke and the Earle of Marre running about to come by that passage his Maiestie came in at. But the Earle of Gowrie and his seruants made them for another way up a quiet turnepeeck, which was euer condemned before, and was only then left open, (as appeared) for that purpose.

And in this meane time, his Maiestie, with struggling and wrastring with the said Maister Alexander, had brought him perforce out of that study, the doore whereof, for haste, he had left open, at his last incomming; and his Maiestie having gotten, (with long struggling) the sayde Maister Alex-

anders head under his arme, and himselfe on his knees, his Maiestie droue him backe, perforce, hard to the doore of the same turne-pike; and as his Maiestie was throwing his sworde out of his hand, thinking to haue stricken him therewith, and then to haue shotte him ouer the staire, the other fellow standing behinde the Kinges backe, and dooing nothing but trembling all the time, Sir John Ramfay, not knowing what way first to enter, after hee had heard the Kinges cry, by chance findes that turne-peck door open, and, folowing it vp to the head, enters in into the chamber, and findes his Maiestie and Maister Alexander strugling in that forme, as is before sayde: and after he had twise or thrise stricken Maister Alexander with his dagger, the other man withdrew himselfe, his Maiestie still keeping his gripes, and holding him close to him: immediatly thereafter, he tooke the sayd Maister Alexander by the shoulders, and shotte him downe the staire: who was no sooner shotte out at the doore, but hee was met by Sir Thomas Erskine and Sir Hew Hereis, who there, vpon the staire, ended him; the sayde Sir Thomas Erskine being cast behind the Duke and the Earle of Mar, that ran about the other way, by the occasion of his meddling with the sayde late Earle in the streete, after the hearing of his Maiesties crie. For vpon the hearing thereof, hee had clasped the Earle of Gowrie by the gorget, and casting him under his feete, and wanting a dagger to haue stricken him with, the sayd Earls men rid the Earle their Maister out of his handes; whereby hee was cast behinde the rest, as is sayd: and missing the companie, and hearing the sayde Sir John Ramfayes voyce vpon the turn-peck head, ran vp to the sayd chamber, and cryed vpon the sayd Sir Hew Hereis and another seruant to follow him: where, meeting with the sayd Maister Alexander in the turne-peck, he ended him there, as is sayd: the sayd Maister Alexander crying, for his last wordes, ‘Alas! I had not the weight of it.’ But no sooner could the sayde Sir Thomas, Sir Hew, and another seruant, winne into the chamber where his Maiestie was, but that the sayde Earle of Gowrie, before they could gette the doore shut, followed them in at the backe, hauing cast him directly to come vp that priuy passage, as is before said: who, at his first entrie, hauing a drawne sworde in euery hand, and a steele bonet on his head, accompanied with feuen of his seruants, euery one of them hauing in like maner a drawn sworde, cried out with a great oath, that they shold al die as traitors! Al the which time, his Maiestie was still in the chamber; who, seeing the Earle of Gowrie come in, with his swordes in his hands, fought for Maister Alexanders sword, which had fallen from him at his out-shutting at the doore; hauing no sorte of weapons of his owne, as is sayde: but then was shut backe by his owne seruants that were there into the litle studie, and the doore shut vpon him: who, hauing put his Maiesty in safety, re-encountred the faide Earle and his seruants, his Maiesties seruants being onely in number foure, to wit, Sir Hew Hereis, Sir John Ramfay, and one Wilton a seruant of James Erkins, a brother of the sayd Sir Thomas, the sayde Earle hauing feuen of his owne seruants with him: yet it pleased God, after many strokes on all handes, to giue his Maiesties seruants the victorie; the sayde Earle of Gowrie being striken dead with a stroke through the heart, which the said Sir John Ramfay gaue him, without once crying vpon God, and the rest of his seruants dang ouer the staires with many hurtes, as in like maner the sayde Sir Thomas Erskine, Sir Hew Hereis, and Sir John Ramfay, were al three very fore hurt and wounded.

But al the time of this fight, the Duke of Lennox, the Earle of Mar, and the rest of his Maiesties traine, were striking with great hammers at the vtter doore whereby his Maiesty pass vp to the chamber with the said Maister Alexander, which also he had lockt in his by-comming with his Maiestie to the chamber; but, by reason of the strength of the said double doore, the whole wall being likewise of boordes, and yeelding with the strokes, it did bide them the space of halfe an houre and more, before they could get it broken, and haue entresse: who hauing met with his Maiesty, found (beyond their expectation) his Maiestie deliuered from so imminent a perill, and the sayde late Earle the principall conspirator lying dead at his Maiesties feete. Immediately thereafter, his Maiestie kneeling downe on his knees in the midst of his owne seruants, and they all kneeling rounde about him, his Maiesty, out of his owne mouth, thanked God of that miraculous deliuerance and victory, assuring

himselfe, that God had preferred him from so dispaired a perill, for the persuing of some greater work behind, to his glorie, and for procuring by him the weale of his people, that God had committed to his charge. After this, the tumult of the towne hearing of the slaughter of the sayde Earle of Gowrie their Prouost, and not knowing the manner thereof, nor beeing on the counsell of his treasonable attempt, continued for the space of twoo or three houres thereafter, vntill his Maiestie, by oft speaking out to them at the windowes, and beckoning to them with his owne hand, pacifying them, causing the Bailies and the rest of the honest men of the towne to be brought into the chamber; to whome hauing declared the whole forme of that strange accident, he committed the house and bodies of the said traitorous brethren to their keeping, vntill his Maiesties further pleasure were knowne. His Maiestie hauing, before his parting out of that towne, caused to search the said Earle of Gowries pockets, in case any letters, that might further the discovery of that Conspiracy, might bee founde therein. But nothing was founde in them, but a little close parchment bag, full of magicall characters, and wordes of inchantment, wherein it seemed that hee had put his confidence, thinking himselfe neuer safe without them, and therefore euer caried them about with him: Beeing also obserued, that while they were vpon him, his wound, whereof he died, bled not; but, incontinent after the taking of them away, the blood gushed out in great abundance, to the great admiration of all the beholders; an infamy which hath followed and spotted the race of this house for many discentes, as is notoriously knowne to the whole cuntrie. Thus, the night was farre spent, beeing neere eight houres at euening, before his Maiestie could (for the great tumult that was in the towne) depart out of the same. But, before his Maiesty had ridden foure myles out of the same towardes Falkland, although the night was very darke and rainy, the whole way was clad with all sort of people, both horse and foote, meeting him with great ioy and acclamation. The frequencie and concourse of personnes of all degrees to Falkland the rest of the weeke, and to Edinburgh the next, from all the quarters of the cuntrie, the testimony of the subiectes hearty affection and ioy for his Maiesties deliuerie, expressed euery where, by ringing of bells, bonifiers, shooting off guns of all sorts, both by sea and land, &c. with all other things ensuing thereupon, I haue of set purpose pretermitted, as well knowne to all men, and impertinent to this discourse; contenting myselfe with this plaine and simple narration; adding onely, for explanation and confirmation thereof, the Depositions of certaine persons, who were either actors and eie-witnesses, or immediate hearers of those thinges that they declare and testifie; wherein, if the reader shall find any thing differing from this narration, either in substance or circumstance, he may vnderstand the same to be vttered by the deponer in his owne behoofe, for obtaining of his Maiesties princely grace and fauor.

APUD FALKLAND, 9th August 1600. *In presence of the Lord Chancellor, Lord Treasurer, Lord Secretary, Lord Comptroller, Lord Adoucate, the Lord Incheffray, and Sir George Home of Spot, Knights.*

JAMES WEIMIS of BOGY, of the age of 26 yeere, or therby, sworne and examined vpon the forme and maner of behauiour of late Johnne Earle of Gowrye, the time of his being with him at Strabran; or if he had heard the sayd Earle make any motion of the Treason intended against his Royall Majestie? Depones, that he neither heard, nor saw, any appearance of any such intention in the said Earle.¹

Demaunded, 'If he was in any purpose with the said Erle, anent any matters of curiositie?' Depones, that at their being in Strabran, some of their company found an edder, which being killed, and knowledge thereof comming to the Earle, the Earle sayde to this deponer, Bogy, 'If the edder had not bene slaine, yee should haue seene a good sport; for I should haue caused her stand still,² and shee should

¹ This evidence is inserted with the view of proving, not the traitorous purposes, but the sorceries of Gowrie. How far this end has been attained, the reader is left to decide.—*Hales*.

² It was an ancient superstitious notion, and which had not ceased in the days of Gowrie, that serpents might be rendered innocuous by means of certain charms and incantations. The writers, who treat of Magic, insist on this among other fooleries. *Delrius, Disqui-*

not haue pressed away, by pronouncing of an Hebrew word, which in Scottisli is called holiness; but the Hebrew word the deponer remembers not of: and that the Earle sayde, hee had put the same in practise oft before. And this deponer inquiring of the Earle 'where he get the Hebrew word?' The Earle answered, 'In a cabbalist of the Jewes, and that it was by tradition:' And the deponer inquiring, 'what a cabbalist meant?' The Earle answered, 'It was some wordes which the Jewes had by tradition, which wordes were spoken by God to Adam in Paradise; and therefore, were of greater efficacie and force than any wordes which were excogitate since, by Prophets and Apostles.' The deponer inquiring 'If there were no more requisite but the word?' The Earle answered, 'That a firme faith in God was requisite and necessary; and that this was no matter of maruel amongst schollers, but that al these things were naturall.' And that the Earle shewed to this deponer, that he had spoken with a man in Italie, and first hearing, by report, that he was a nigromancer, and thereafter being informed that he was a very learned man, and a deep theologue, he entered in further dealing with him, anent the curiositie of nature.

Depones further, that the said Earle reported to him, that he being at musicke, he fell in company with an other man, who staring in the Earles face, spake to the rest of the companie thinges of him, which he could neuer attaine unto, nor be worthy of:¹ and therefore that the Earle reproached him, and desired him to forbear these speeches. And that he met againe with the said man in a like company, who did begin with the same language which hee had spoken before: and that the Earle sayd to him, 'My friend, in case yee will not hold your peace from speaking lies of me, I will make you hold your peace, by speaking truth of you;' and said vnto him, within such a space he should be hanged for such a crime; and so it came to passe. This deponer, inquiring of the Earle, 'who told him that?' He answered merrily, 'That he spake it by guesse, and it fell out so.' And that the Earle sayd farther, that 'it was nothing to make an herbe fleshe, which would dissolve into flies;² and that likewise it was possible that the seed of man and woman might be brought to perfection otherwise than by the matrix of the woman:³ And that this deponer counselled the Earle to 'beware with whom hee did communicate such speeches:' who answered, that 'hee would speak them to none, but to great schollers; and that he would not have spoken them to this deponer, if he had not knowne him to bee a fauoror of him, and a friend of his house, and would not reveale the same againe, seeing hee knewe they would be euill interpreted amongst the common sorte.' (Sic subscribitur) J. WEIMYS of BOGIE.

APUD FALKLAND, 20th August 1600. *In presence of the Lordes Chancellour, Treasurer, Advocate; Sir George Home of Spot, Sir Robert Meluill, and Sir James Meluill, Knights.*

MAISTER WILLIAM RYND, sworne and examined, and demanded, 'where he first did see the characters which were found upon my Lord?' Depones, that he, having remained a space in Venice, at

sit. Magic. l. 2, q. 13, p. 147, 148, speaks of it with much seriousness. The form of the incantation may be found at length in Wierus, De Prestigijs Dæmonum, lib. 5, c. 4, 5, 10. Perhaps all the learning of Gowrie did not exempt him from believing that such incantations were possible, and even lawful; but from this circumstance, to assert that he was a magician, may seem too hasty a conclusion.—Hailes.

¹ 'One Colvil hath sent the King the collection of the fortune to befall Gowrie, upon his nativity, written with the Earle's hand, in French, at Orleans, and there found, containing that he should return, be in great credit, seek for a wife, and yet dye with his sword in his hand, before he should be married.' Nicolson to Cecil, 12th November 1600. *Paper Office.* It would seem that the sorcerers with whom Gowrie conversed, differed in their opinion of his future fortunes.—Hailes.

² While the doctrine of equivocal generation prevailed, this absurdity found credit. *Augustin. lib. 3, d. Trinitate. c. 7, says that magicians can speedily produce 'animalia imperfecta, muscas, vermes, ranas, et hujusmodi insecta, et alia quæ ex putrefactione nascuntur, non creando, sed activa passivis applicando.'* This opinion is followed by the rabble of schoolmen; and perhaps Gowrie might have attempted to produce so imperfect an animal as a fly, by the proper application of actives to passives.—Hailes.

³ Of this Paracelsus speaks: 'Non parva dubitatio et questio inter aliquos ex antiquis philosophis fuerit, an nature et arti possibile esset hominem gigni extra corpus muliebri et matricem naturalem? Ad hoc respondeo, quod id arti pygryca, (i. e. chemicæ) et nature nullo modo repugnat, immo autem possibile sit!' He subjoins the receipt at length, but it is so licentious and so absurd, that I must be excused from inserting it in this work. It may, however, be observed, that, according to Paracelsus, men formed by this receipt need to learn nothing; for that, as they are made by art, they know every thing; an advantage which persons who come into the world in the natural way, never enjoy.—Hailes.

his returning to Padua, did find in my Lordes pocket the characters which were found vpon him at his death: and the deponer inquiring of my lord, 'Where he had gotten them?' My lord answered, that 'by chance he had copied them himselfe:' and that the deponer knowes that the characters in Latine are my lords owne hand-writing; but he knowes not if the Hebrew characters were written by my lord. Depones further, that when my lord would change his clothes, the deponer would take the characters out of my lords pocket, and would say to my lord, 'Wherefore serues these?' And my lord would answer, 'Can you not let them be? they do you no evill.' And further, the deponer declares, that sometimes my lord would forget them, vntil he were out of his chamber, and would turne backe as he were in an anger, vntil hee found them, and put them in his owne pocket: Depones further, that he was sundry tymes purposed to haue burnt the characters, were it not that he feared my lordes wrath and anger; seeing, when the deponer would purposely leave them sometimes out of my lordes pocket, my lord would be in such anger with the deponer, that for a certayne space he would not speake with hym, nor coule not finde his good countenance. And that (to this deponers opinion) my lord would neuer be content to want the characters off hymselfe, from the first time that the deponer sawe them in Padua, to the houre of my lords death. Being demaunded, 'For what cause my lord kept the characters so well?' Depones, that, to his opinion, it was for no good; because he heard, that, in those partes where my lord was, they would give sundry folkes breeues.¹ Depones further, that Maister Patricke Galloway lette this deponer see the characters, since that hee came to this towne of Falkland, and that he knowes them to be the very same characters which my lord had. Depones also, that, on Monday the fourth of August, the Maister, Andrew Henderson, and the deponer remained in my lords chamber, till about ten houres at euen, and after a long conference betwixt the lord and the Maister, my lord called for Andrew Henderson, and after some speeches with him, dismissed them. Denies that he knew of the Masters or Andrew Hendersons riding to Falkland; and after Andrews retrurne from Falkland upon the morrow, howbeit he did see him booted, yet he knew not that he was come from Falkland. Depones, that my Lord being at dinner when the Master came in, the deponer heard my Lord say to the Master, 'Is the King in the Inthe?' and with that he did rise, and saide, 'Let vs goe.' But the deponer knowes not what the Maister said to my Lord. Being demaunded, if he did see any kind of armour or weapons, except swords, in the Kings companie? Depones that he did see none. It being demaunded, how the deponer was satisfied with my lords answer made to him, concerning the Kings coming to Saint Johnstoun, saying that hee knew not how he came? Declares that he thought my lord had dissembled with him, and that he behoued to haue knowne it, seeing his brother was come with his Maiestie before that he demanded of him, and that he had conferred with my Lorde priuile. Depones that he knew not that the Master was ridden to Falkland, vntil after his Maiesties coming to Saint Johnstoun, that Andrew Ruthven told him; because the deponer inquired of Andrew Ruthven, 'where the Master and he had bin?' And that Andrew answered, 'they had been in Falkland.' And that the Maister hauing spoken with the King, his Maiesty came forward with them: and that this conference betwixt the deponer and Andrew Ruthven was in the yard, when my lord was there. And Andrew Ruthven shewed to the deponer, that Andrew Henderson was directed by the Maister, to shew my lord that his Maiestie was coming. Depones also, that, in his opinion, the Master could not haue drawne the King to my lordes house, without my lordes knowledge: and that, when hee heard the tumult, he was resolved in his heart the Maister had done his Maiestie wrong; and that no true Christian can thinke otherwise,² but that it was an high treason,

¹ Epistles, schedules, or small treatises. The word here means magical writings, amulets, &c. ² To this narrative the following expressions, in a letter from Nicolson to Cecil, 21st of August 1600, may be properly subjoined: 'Mr William Rynd, the pedagogue, hath been extremely booted, but confesseth nothing of that matter against the Earl or his brother.' *Paper Office.—Hailes.* He could not confess any fore-knowledge; for it is evident, that he had purposely been kept in profound ignorance of the Plot, which was known to Gowrie and his brother alone. Rind's firm adherence to Henderson's Deposition, is a very strong fact, and deserving of the utmost credit.

attempted against his Highness by the Master and the Lord. Depones also, that, to his opinion, the Kings whole company was within a dozen of men. (Sic subscribitur) M. W. RYND.

22d August 1600.—Master WILLIAM RYND sworn and re-examined, if euer he heard the Earle of Gowrie vter his opinion, anent the duetie of a wise man in the execution of an high enterprife? Declares, that, being out of the countrey, he had diuerse times heard him reason in that matter, and that he was euer of that opinion, that ‘he was not a wise man, that hauing intended the execution of a high and dangerous purpose, communicate the same to any but to himselfe;’¹ because keeping it to himselfe, it could not be discovered nor disappointed:’ which the deponer declared before, vnrequired, to the Controller, and Master William Cowper Minister at Perth: And hearing the depositions of Andrew Hendersoun read, and being enquired, vpon his conscience, what he thought of the fact that was committed against his Majestie? Declares, that vpon his saluation, that he beleeuves Andrew Hendersoun has declared the circumstances truly. (Sic subscribitur) M. W. RYND.

APUD FALKLAND, 20th August 1600. In presence of the Lordes Chancellour, Treasurer, Advocate, Controller, Sir George Home of Spot, and Sir James Meluill, Knights.

ANDREW HENDERSOUN sworn and examined, and demanded, ‘What purpose was betwixt him and the Earle of Gowrie vpon Monday at night, the fourth of this instant, in the said Earles chamber?’ Depones, that the Earle inquired of him, what he would be doing vpon the morne? And he answered, that he was to ride to Ruthwen: The Earle said to him, ‘You must ride to Falkland with Master Alexander my brother, and when he directs you backe, see that ye returne with all diligence, if he send a letter or any other advertisement with you.’ Depones, that the Master directed him to fend for Andrew Ruthven to be in readinesse, to ride with them the morrow, at foure houres in the morning. Declares, that they comming to Falkland, about seuen houres in the morning, the Master staid in a lodging beside the pallace, and directed the deponer to see what the King was doing; and the deponer finding his Majestie in the close comming forth, he pass’t backe, and told the Master, who immediately address’d himself to his Highness, and spake with his Maiestie a good space, beneth the equirie: and after his Maiestie was on horsebacke, the Maister commeth to the deponer and commaunds him to fetch their horses, and bade him haste him, as he loued my lordes honour and his, and aduertise my lord, that his Maiestie and he would be there incontinent, and that his Maiestie would be quiet: And the deponer inquiring of the Master, ‘if he should go presently?’ He did bid him leape on and follow him, and not to goe away vntil he spake with the King: And the Maister having spoken with the King, at a breach of the park wall, he turned backe, and bade the deponer ride away; and the deponer

¹ It was natural for the King and his Ministers to enquire, who were the accomplices of Gowrie and his brother; and when no accomplices could be discovered, to impute this to the caution of Gowrie. This appears to be the reason of the question put to Rynd. *Spotiswood* says, *History of the Church of Scotland*, b. 6, p. 461. ‘I remember myself, that meeting with Mr William Couper, then Minister at Perth, the third day after, in Falkland, he shewed me that, not many days before that accident, visiting by occasion the Earl at his own house, he found him reading a book intitled *De Conjuratibus aduersus Principes*; and having asked him, ‘what book it was?’ he answered, That it was a collection of the Conspiracies made against Princes, which, he said, were foolishly contrived, all of them, and faulty either in one point or other; for he that goeth about such a business should not, said he, put any man on his counsel.’ From the title and contents of this book, Lord Hailes was inclined to think that it was the Latin translation of Machiavel’s discourses on Livy, b. 3, c. 6. Gowrie might very innocently read that discourse. *Machiavel* thus explains his intentions in writing it: ‘E non mi è parso da lasciare indietro il ragionare delle congiure, essendo cosa tanto pericolosa à i principi et à i privati, perche si vede per quelle molti piu principi haver perduta la vita et lo stato, che per guerra aperta: perche il poter fare aperta guerra con un principe è conceduto à pochi, il potergli congiurare contra, è conceduto a ciascuno. Dall’ altera parte, gli huomini privati non entrano in impreso piu pericolosa ne piu temeraria di questa: perche la è difficile et pericolosissima in ogni sua parte. Donde ne nasce che molte se ne tentano, e pochissime hanno il fine desiderato. Accioche adunque i principi imparino a guardarsi da questi periceli, e che i privati piu timidamente vi si mettino, anzi imparino ad esser contenti à vivere sotto quello imperio che dalla sorte è stato loro preposto, io ne parlero diffusamente non lasciando in dietro alcun caso notabile in documento dell’ uno e dell’ altro.’ It may be observed, that the conjectures which the King and his Ministers formed, were afterwards fully disproved, in their own opinion, when Logan of Restalrig and Bour appeared to have been conscious of the purposes of Gowrie.—*Hailes*.

making his returne, in al possible hafte, to Saint Johnstoun, he found my lord in his chamber, about ten houres, who left the companie he was speaking with, and came to the deponer, and asked, 'Hath my brother sent a letter with you?' The deponer answered, 'No: but they will be all here incontinent, and bade the deponer desire my lord to cause prepare the dinner.' Immediately thereafter, my lord took the deponer to the cabinet, and asked at him, 'how his Maiestie took with the Maister his brother?' The deponer answered, 'Very well! and that his Maiestie laide his hand ouer the Maisters shoulder.' Thereafter my lord inquired, 'if there were many at the hunting with the King?' The deponer answered, that he 'tooke no heede, but they who were accustomed to ride with his Maiestie, and some Englishmen were there;' and that my lorde inquired, 'what speciall men were with his Maiestie?' And that the deponer answered, he did see none but my Lord Duke. And within an houre thereafter, when the deponer came in from his owne house, the Earle bade him putte on his seeret, and plaitte sleenes, for he had an Hyland man to take; which the deponer did incontinent. And about twelve houres, when the deponer was going out to his owne house to his dinner, the steward came to him and told him, that George Cragingelt was not wel, and was laine downe; desired him to tarry and take up my lordes dinner: and about halfe an houre after twelue, my lord commanded him to take up the first seruice. And when the deponer was commaunded to take up the second seruice, the Maister and William Blaire came into the hall to my lord. The deponer remembereth himselfe, that Andrew Ruthven came before the Maister a certain space, and spake with my lorde quietly at the table; but heard not the particular purpose that was amongst them. And so soone as the Maister came to the hall, my lorde and the whole company rose from the table: And the deponer hearing the noyse of their forthgoing, supposed they were going to make breakes for Mac-onilduy:¹ And the deponer sent his boy for his gantlet and steil-bonnet; and seeing my lorde passe to the Inthe, and not to the shoe-gate, the deponer did cast the gauntlet in the pantry, and caused his boy to take his Steele-bonnet to his owne house: And he followed my lord to the Inthe, and returning backe with his Maiestie to the lodging, beeing directed to get drinke. And the Maister came to the deponer, and did bid him cause Maister William Rynde to sende him vp the keye of the galerie chamber; who past vp and delivered the key to the Maister: And immediately my lorde followed vp, and did speake with the Maister, and came downe againe, and directed Maister Thomas Cranstone to the deponer, to come to his lordship in his Maiesties chamber. And that my lord directed him to go vp to the gallery to his brother; and immediately my lord followed vp, and commanded the deponer to bide there with his brother, and to do any thing that he bade him: The deponer inquired at the Maister, 'What have ye to do, sir?' The Maister answered, 'Ye must go in heere, and tarry untill I come backe; for I will take the key with me.' So he locked the deponer in the round, within the chamber, and tooke the key with him. Shortly thereafter, the Maister returned, and the Kings Maiestie with him, to the said cabinet in the rounde; and the Maister opening the doore, entered with the King into the said rounde: And, at his verie entrie, conering his head, pulled out the deponers dagger, and held the same to his Maiesties breast, saying, 'Remember ye of my fathers Murder? Yee shall now die for it:' And minting to his Highnes heart with the dagger, the deponer threw the same out of the Maisters hand: And swore, that as God shall iudge his foule, if the Maister had retained the dagger in his hand the space that a may goe fixe steps, he would have stricken the King to the hiltes with it: But wanting the dagger, and the Kinges Maiestie giuing him a gentle answere, he said to the Kinges Maiestie, with abominable oathes, that, if he would keepe silence, nothing shoulde aile him, if he would make such promise to his brother, as they would craue of him: And the Kinges Maiestie inquiring, 'What promise they would craue?' He answered, that he would bring his brother.

¹ This expression is obscure. Henderson, in his evidence at the trial, says, that he believed Gowrie was going to take the Highlandman. The expression here has probably the same meaning. *To make breakes for Mac-onilduy*, i. e. to make breeches for the son of black Donald, may signify, to secure the Highlandman and commit him to prison. Thus, *stone-doublet* is a vulgar English phrase for a prison.—*Hailes*,

So he goes forth, and lockes the doore of the round vpon his Maiefty and the deponer; hauing first taken oath of the King, that he should not crie, nor open the windowe. And his Majesty inquiring of the deponer, 'What he was?' He answered, 'A seruant of my lords.' And his Majesty asking of the deponer, 'If my lord would doe any euill to him?' The deponer answered, 'As God shal iudge my soul, I shal die first.' And the deponer pressing to haue opened the windowe, the Maister entred, and said, 'Sir, there is no remedie; by God, you must die:' and having a loose garter in his hand, pressed to haue bound his Maiesties hands; and the deponer pulled the garter out of Maister Alexander his hand. And then the Maister did put one of his hands in his Maiesties mouth, to haue stayed him to speake, and helde his other arme about his Highnesse necke: and that this deponer pulled the Maisters hand from his Highnesse mouth, and opened the windowe: And then his Majesty cryed out thereat; wherevpon his Highnesse seruants came in at the gate; and this deponer did runne and open the doore of the turnepecke head, whereat John Ramfay entered: and the deponer stode in the chamber, vntill he did see John Ramfay giue the Maister a stroke; and thereafter, priuily conueyed himselfe downe the turnepecke to his owne house: and the deponers wife inquiring of him, 'What the fray meant?' The deponer answered, 'That the Kings Majesty would haue bene twice ficked, had not hee releened him.'

(Sic subscribitur)

ANDREW HENDERSOUN with my hand.

FURTHER, the sayde Andrew Henderfoun depones, that after his returning from Falkland, on the fift of this instant, Maister John Moncrief inquiring of him, 'Where he had bene?' He answered, That he had bene 'beyond the bridge of Erne;' and sayes, that he gaue that answer to Maister John, because my lord commanded him to 'let no man know that he was to ride to Falkland:' And that my lordes direction to him was, to 'come backe with his brother Maister Alexanders answer, and to leave Andrew Ruthwen to awaite vpon the Maister.'

(Sic subscribitur)

ANDREW HENDERSOUN with my hand.

FURTHER, the sayde Andrew Henderfoun depones, that, when he had taken the Maisters hand out of the Kings Maiesties mouth, and was opening the windowe, Maister Alexander sayde to him, 'Wilt thou not helpe? Woe betyde thee, thou wilt make vs all die!'

(Sic subscribitur)

ANDREW HENDERSOUN with my hand.

NO. V.

DE EXECRABILI ET NEFANDA FRATRVM RVVENORVM in serenissimi SCOTORVM REGIS caput CONJURATIONE,¹ apud Perthum, Augusto mense, an. 1600, Vera ac dilucida NARRATIO. Cui præmissa est, Prefationis loco, velitatio cum Lectore in fide et assensu commodando paulo religiosiore. His accessere ad Regem Soteria Carmine Heroico.

Ecce improbi tendunt arcum, aptant sagittas suas nervo ad jaculandum in caligine contra rectos corde. Atqui istis propositis destruentur: Iustus enim quid operatus est?—*Psal.* 11, vers. 2 et 3.

EDINBURGI excudebat ROBERTUS CHARTERIS, Typographus. 1601. Cum privilegio Regio.

¹ From a copy in the Library of the University of Edinburgh, having the signature of Sir James Balfour at the foot of the Title-page, 'Ja: Balfourius Kynardie Miles, Leo Arnorum Rex. 1629.' The Editor is indebted to Mr David Laing for the following curious abstracts from the Records of Aberdeen:—'1601. The inhabitants ordered to accompany the Magistrates through the town, singing Psalms and praising God. The Cross to be decked; wine to be drunk with spiceries, and glasses broke.' Vol. xl. pp. 104 and 106.—'Mr Thomas Cargill to be paid £20 for his Latin Treatise, congratulating the King on his deliverance from Gowrie's Conspiracy.' *Ibid.* p. 179.—'See also, under the year 1619, ordered to be celebrated.' Vol. xlix. p. 529.

AD LECTOREM pro intemerata Narrationis huius fide.

PRÆSCRIPTIO.

EN tibi, Lector, narrationem, quam Tragicis siue prodigiosis, per me licet, hactenus inferas, vt de intemerata narrantis fide nihil addubites. Narrationem quidem certe, quæ ordinem, euentumque pessime facinoris puriter simpliciterque proponit: at consilia, causas, finesque rerum, quarum pleraque in ambiguo, aut incomperta, nec exponit vbertim, nec (quod Historiæ est proprium) de rebus ipsis indicat. Et Narrationem nudam adeo simplicemque, vt in ea verborum apparatus, orationisue ornamenta magnopere si desideres, frustra sis. Res enim per se nimis atrox ac inuidiosa, lenocinium et quæsitos arte colores circumponi sibi non patiebatur, quo facio comptior et calamistris, eo maiorem forsitan Lectori scrupulum iniectura. *Veritatis* enim, ait ille, *simplex est oratio*. Atque adeo prodigiosis adscribere non dubitavi: Tum ex meo ipsius sensu, qui consilium, et modum, atque euentum facinoris, et vniuersam rei gestæ rationem, omnia certe agnosco miraculo proxima. Tum multo magis, mi Lector, ex tuo: quem ego audio in præcipuis Tragoediæ huius actoribus duo potissimum admirari: Vnum in Rege, qui insidijs appetitus: alterum in proditore, qui istiusmodi fraudem architectatus. Nam et affine prodigio tibi videtur, Principem admirabili solertia ingenij, singulari iudicij acumine, maximo rerum usu, ab homine adolescente, puluerem scholasticum non ita multo ante egresso, tum occasione leuicula ac prope futili in fraudem inductum: tum etiam cum fraudem vel maxime suspectaretur, summi discriminis incuriosum. Nec rursus miraculo carere videtur, hominem adolescentem (hic mihi comitem ipsum intellige, qui calciamentum confuit, non fratrem fraudis ministrum qui confutum modo induit) vix duos supra viginti annos natum, ampliter a natura, vberius a doctrina informatum, in magna domi re, bona foris fama, summa apud omnes gratia, in caput Principis fui ob singulares virtutes omnibus carissimi, et de illo imprimis optime meriti, sine probabili aliqua causâ conspirare. Et tamen si voti compos factus esset curiosus alieni operis arbiter Momus, ac fuissent illæ in pectore fenestræ per quas daretur aditus ad introspectiendum in adyta mentis vtriusque: foret hic, opinor,

Nil adeo magnum, neque tam mirabile quicquam,

Quod non paulatim minuant mirarier omnes.

Vidisses enim in Rege præter alias dotes Regias, niueam puramque mentem, insolentem malarum artium, vt fraudes struere, ita metuere nesciam: vidisses fidem *Sanctissimum humani pectoris bonum*. Contra in proditore malam mentem, impurum animum, simulandi dissimulandique artificem, *Astutam rapido sub pectore Vulpem*: hominem quam foris inanis tectorij fulgore visendum, introrsum tam turpem, luridum, virulentum. Neque fraudem ipsam capitalem habes nunc clarius oculis subiectam, quam cogitati facinoris causas, consilia, finem, tum sensibus animoque comprehensa teneres: adeo quid ille tanto flagitio volebat, quid captabat, aut meditabatur, liquido dignosceres. Verum vtcunque vota non fruatur suo Momus, si tibi otium humani ingenij lubricum et desultoriam fortunæ vicissitudinem æqua iudicij lance mecum expendere: simul animis rationem renocare ad veritatem: nihil opinor, reperitur etiam in istis quæ miraculo proxima videbantur, adeo fidei absonum quod tuum, vel mediocriter sapientis assensum debeat remorari. Nam si quos stupor, aut lior, aut alius quispiam adfectus ita præpedit: vt obstinauerint animo ad illustrissimum veritatis Solem mero meridie caligare, ad horum ego aures pro cymbalo non sum futurus. Te tantum, Lector benignior, qui in omni negotio intentus ac suspensus ambulare cupis: in fide autem et assensu potissimum tardus lentusque esse amas, cum eo, vt semitam qua eatur in viam paratus sis ingredi: te inquam, pro virili iuuare est animus: et scrupulum istum vnum aut alterum, qui te sollicitum habet eximere: ne si inani credulitate iam tempore ipso prope satis confutata, hæcere aut fluctuare porro pergas, cum isthac tua religione (vt parcissime loquar) dignus esse odio videare. Atque vt id magis fiat ordine: de Principis fiducia primum paucis: dein de sceleris instinctore pluribus disseram. Nam quod tibi videtur parum dignum regio fastigio, nec principis satis decorum, pro auri olla caput in discrimen mittere: equidem non repugnarem, si vero vinceret vel anrum Regi tantum in mente fuisse: vel de insidijs et vitæ periculo saltem iudicio cuiusquam illi con-

stitisse. De discrimine concepta magis quam iniecta suspitio, fecit aliquantisper animi pendulum: sed dum rectoris vir spiritus religioni habet, absque manifestis indiciis alienam virtutem suspicionem violare, quid mirum si ea sollicitudo mox vertit in fiduciam? Quod si auri cupidine velut inescatam ipsius simplicitatem putas, quam vellem præstantissimi Regis ingenium iuxta mecum exploratum haberes. Neque enim modo quibus ille intime notus, sed et communiter omnes qui e vulgo id sciunt, splendens hoc aurum, quod aliis mortalibus præstringit oculos, illum plane negligere, atque oculo (vt poeta loquitur) irretorto adspicere. Ille ne vt salutem suam et publicam auro contra charam non habeat: cui tam amplæ, tamque frequentes pecuniarum conquirendarum rationes, salua et vita et existimatione, curæ cordiue impendio nunquam fuerunt? Basileiam graphice admodum et magnifice (vti decebat et Deam et Iove prognatam) in oratione de regno depingit Dion Chrysostomus. Aurum quidem copiosum habentem iuxta pedes cumulatam, sed cuius aspectu nihil afficiatur: magis omnigenis quæ solium ipsius circumiecta sint, animalibus delectetur. Et tu audebis credere Regem clarissimum expressissimam mercede Basileias Ideam: quippe quem venationis auocamentum mirifice capit et rapit, aurum nec capit nec tenet, relicta ferarum confectatione, speratam auri prædam vel periculo capitis persequiturum? Imo contra, hoc vnum in eo populares desideramus, maiore ad rem attentionem, in opibus congerendis, thesauris accumulandis, fisci utilitatibus promouendis studium vehementius. Sed nimirum Herculem vnicum vitæ ad virtutem instituendæ exemplar ille sibi proposuit ad imitandum. Quem quod memorant nudum incesfisse Leonis duntaxat exuvias indutum, id eo sensu viri rerum intelligentes accipiunt: quod neque aurum neque argentum, neque vestimenta pretiosa in magno pretio habuerit, omnia nisi vt exercendæ liberalitatis essent, nullo loco numeraverit. Ad eundem modum Rex noster aurum, argentum, altaque in fortunæ ditione posita, quæ miseri mortales misere capiunt, in postremis ducit: ea non appetens nisi ad vnicam gratificandi facultatem: in subditorum benevolentia, amicorumque fide firmissimum regni præsidium, et maximum Imperij instrumentum positum existimans: hunc thesaurum etiam Regiæ Perfarum gazæ anteponebat. Quare meo quidem animo, quidlibet causæ comminiscere potius, quam vt auri cupiditatem principi munificentissimo obrudas. Ego magis adducor vt credam rei novitate inductum, aut incolumitatis publicæ studio, dum ab auro extraneo non iniuria metuit rerum domi turbandarum materiam. Et quanquam auri inspiciendi provinciam vni e purpuratis suis poterat demandare, et nullo suo discrimine ad se deferendum curare: tamen qui morum in eo candorem, et promptam suis omnibus humanitatem reputabit, etiam hic antiquum obtinere nihil mirabitur. Quid est enim Rege humanissimo familiaris, quam comiter invitatum in nobilium virorum aedes cum lubentia itare: idque quantum potest rarissimo comitatu? Nempe quia moderata ac pacifica multorum annorum gubernatione id se consecutum arbitrabatur, vt amore civium et benevolentia septus, munimento alio non egeret: innocentiae suæ præsidio contra vim omnem satis firmiter munitus. At enim, inquires, hominis erat parum considerati, postquam suboluisse illi insidiæ, non cogitare tum sæculum quo viveret in quo nusquam tuta fides: quam ipse personam sustineret. Certe quidem nec ævum ignorabat ad fraudem, perfidiam et veteratorias artes affabre factum: neque illud nesciebat, cum qui multorum se custodem profiteatur ex sapientum seito, *Sui primum capitis custodem esse oportere*; sed cogitabat rursus nihil esse causæ, cur adversus ipsum fallaciam intenderent, eoque *Magnum animum decere magnam fortunam*. Imo, vt est historiarum omnis ævi exequentiissimus, non fugiebant eum exempla illustrium virorum, qui etiam tum, cum cædes et venena suspicarentur, maioribus animis quam successibus in vitæ periculum incurrisset. Meminerat capitale fuisse Dioni, cum insidias a Calippo opinione præcepisset, quod amicum et hospitem formidare nolle. Nec minus funestum Antipatro Callandri filio, qui ad cœnam vocatus a Demetrio, qui cum ipso pridie cœnasset, non recusavit vna ire, licet sibi valde metueret, ne videretur ei diffidere, qui ipsi filius fuisset. Meminerat Herculem Alexandri ex Barsine filium, a Polyperchonte ad cœnam invitatum, cum et suspectam haberet eam invitationem, et excusasset incommodam valetudinem, subdola hominis versipellis oratione vt in suum ipsius exitium vna proficisceretur, adductum. Quæ quidem et alia eiusdem modi exempla quanquam eum admonebant, quantum posset adire periculi: tamen

animo interritus cœptum vrgebat: quod amoris fiducia suspiciones non admitteret: et animus recte factorum conscientia erectus ancipitem fidei metum, et periculorum cogitationem averfaretur ac dispelleret. Fecit igitur vt decebat virum fortem: fecit quod ante eum excelso plerique animo: fecit quod aliquando ille Regum invictissimus Alexander, qui injecto a purpuratis suis metu de perfidia medici pro medicata potione venenum propinaturi, postquam secreta æstimatione expendisset quid in vtramque partem spes aut metus subiecerant, tandem satius iudicavit (ait Curtius) *alieno mori scelere, quam metu suo*. Nam et Serenissimus noster Princeps, cum aliquandiu animum in diversa versasset, decrevit tandem cuiuslibet discriminis euentum potius expectare, quam eius hominis, que sperabat amicissimum, et sciebat multis magnisque beneficijs sibi pigneratum, fidem prædammare. Itaque quamvis Dioni, Antipatro, et alijs, qui suorum insidijs circumventi, eiusmodi confidentia magno constiterit: certe vt olim Alexandro (referente Curtio) *Sua temeritas cessit in gloriam*: ita, Deo immortalis haud dubie totius huius actionis clamum moderante, isthæc siue fiducia, siue temeritas est, Regi mitissimo non in gloriam modo cedere debet, sed et in securitatem. Ecquis enim erit ille tam male volente Genio natus, qui in posterum audebit attentare adversus eum, cui Deum nullo loco deesse animaduernerit: et extremis præsertim temporibus videt opem adferre præsentissimam? Iniurium sit, imo vero impium, non eius charitate flagrare ardentius: admiratione plus teneri, magis ac magis venerandum sacrosanctumque habere eum, qui Numini eximie charum esse, valentissimæ in desperatissimis rebus suppetiæ clare testificantur. Et enim qui in hoc negotio sola rationum humanarum momenta intuetur, næ ille non solum tota via, sed et toto aberrat cælo. A cælo enim et provida illa mente, quæ serie nobis incognita, supera inferaque moderatur ac gubernat, vniuersa huiusce negotij dispensatio est. Vidit nimirum æterna illa mens regem pium, probum, beneficum comitate et morum facilitate nulli homini secundum, eo natum seculo, cuius hæc labe, virtuti et innocentie invidere velle: atque nihil ignominiosius credere, modesta simplicitate, et probitate in summa fortuna. Ideo visum illi in clarissimo Principe rarum ac singulare exemplum prodere, *fidissimam esse custodiam Principis ipsius innocentiam*: periclitari eam posse, et oppugnari: at nec expugnari nec opprimi. Vidit itidem periculum esse, ne a Diuinæ opis ciniçique amoris fiducia, securior esset quam tutior: eoque eum qui amoris excubijs septum sese putabat, paullo momento terrore suorum succinxit: vt in loco admodum lubrico temperamentum adhibere meminisset: integritatem quidem confertis (vt aiunt) manibus retentam, sed simul, generose cautus, et citra ignamiam circumspectus. Vidit denique in ea incidisse tempora, quibus, ipso auspice ac duce, magna illi mouenda moliendaque essent. Itaque placitum benignissimo Parenti in Principe eius Auspicijs ductuque magna ausuro, præter superiora, permulta quidem et prælustria fauoris sui experimenta, vnum insignitissimum paternæ benignitatis documentum edere: tum ad iungenda et efficacius hominum studia, tum ad animum ipsi hac veluti amoris tessera, in omnem deinceps vitam firmiter obfigillandum. Vt in periculis obeundis, aut laboribus pro Nominis sui gloria, Regni ornamento, dignitatis amplitudinisque Regiæ incremento suscipiendis nunquam fatiscat, aut deficiat animo, sed post acceptum Diuini præsidij tam certum arrhabonem, auxiliares Numinis copias in rebus quamlibet arduis perpetuo sibi spondeat cum poeta: *Dii me tueantur, diis pietas mea curæ est*. Nam si summus Ille rerum arbiter, Scotorum Regi fecisset opinionem quo maxime vellet modo bonitatem suam experiri, quanquam profecto nescio an alio aliquo maluisset, hoc vnum scio certiore quam expertus est, ne optasset quidem. Quamobrem, mi Lector, desine ingenij tui acumine non tam Regis optimi, quam Dei ipsius consilium, sollicitare: vana cogitationum mittens, Providentiæ decreto te permitte: quod Deo placuit, idem vt tibi non displiceat æquum cense, atque in Trismegisti Solomonis veriverbio acquiesce. *Cor Regis in manu Dei ad inclinandum illud quocunque vult*. Item. *Vt Cæli altitudo aut profunditas terræ inperferutabilis est, ita inperuestigabilis est Regis animus*.

Iam altera parte admirandum ac prope incredendum tibi videbatur, iuvenem, natalibus clarum, opibus florentem, domestica externaque disciplina liberaliter institutum, prudentiæ doctrinæque opinione apud omnes ordines gratiosum, pessimo post homines natos flagitio omnium expectationes ludificari,

seque cum illustri familia in probri nunquam intermorituri præcipitium pessum dare. At ego contra tristem ac miserabilem fortasse casum ut agnosco, certe novum aut incredibile nihil video: nisi quemadmodum de parricidio, declamat. 377. loquitur Quintil. *Quædam esse crimina, quæ ipsa magnitudine fidem non impetrant.* Neque enim negabo menm ipsius affectum, principio imperare sibi non potuisse, ut non aspectu primo doleret et miseraretur sortem hominis, qui facinore infando se cum familia indignissime perditum iuisset. Sed cum discussa vulgarium opinionum nebula rectæ Rationis Sol mihi face sua pectus illustravit, adeo mirari desij: ut prope sortem hominis ultra nihil miserarer. Ecquid enim perspicerem hic niniopere novum aut incredendum? Nempe quod homo adolescens, opibus, ingenio, doctrina præstans, dum animo suo plus satis obsequitur, nefario scelere se obstrinxerit. Atqui memineram scripsisse Platonem, *In magnis ingeniis ut magnas virtutes, ita insignia vitia inesse consuevisse.* Et si audimus Senecam, *Nullum esse magnum ingenium sine mixtura dementiæ.* Itaque qua homo non impossibile, qua adolescens credibile: qua vel fortis fortunæ turgidus, vel doctrinæ ingenijque fiducia ferox, vero non absumile mihi videbatur. Vulgi imperiti ad obliquos inopinatosque eventus attoniti et obstupescantis solet hæc esse querimonia. Qui potuit accidere? Quis putasset? At qui sapientia supra vulgum, et exploratos habent modice casus humanos, eos improvisus istiusmodi fortunæ ictus nihil percellet: neque digitum transversum de recti iudicij gradu dimovebit. Illi enim flectentes oculos ad communem sortem, ad varios et reciprocos rerum humanarum fluxus, humani nihil se alienum putant: post primogeniam principum parentum noxam, quemque nostrum hæc et deteriora (si quid est improbus) posse admittere satis intelligunt: quando verum nimis et illud verbi,

Civis potest accidere, quod cuiquam potest.

At proba educatio, ais, et eruditio multa, non sinebant hominem concipere animo tantum nefas. Fateor equidem in bona institutione ad vitam recte instituendam non exiguum esse momentum, cum ad naturæ commoda accedit probæ educationis disciplina. Verum

Multa est opera opus ficturæ, qui se fictorem probum

Vita esse agendæ expetit.

Atque ut de domestica parricidæ huius educatione mihi cauere fortasse ut non nolis: an exoticam pariter et transmarinam audebis præstare disciplinam? Eam tu pariter mecum non ignoras Polypodis capiti perfimilem, in quo bona et mala: aut certe hortis Ægyptiorum, ubi Φάρμακα μειγμένα λυγρὰ καὶ ἐσθλά. Venenata salutaribus permixta. Et quam vellem illa ut non præponderassent. Sed ut fuerit utraque non omnino mala, quis nescit, perinde ac res omnes humanæ natæ sunt volvi, mutari, verti: ita adolescentis indolem, vel pravis consultoribus obrepentibus, vel malarum cupiditatum illecebris obiectis corrumpi depravarique facilem? Certe non temporum magis, quibus nihil fluxius, quam morum in hominibus vicissitudinem agnoscit idoneus æstimator Tacitus, *Rebus, inquit, cunctis inest quidam velut orbis, ut quemadmodum temporum vices ita et morum vertantur.* Et exempla si requiris, millena aliquot aut ego proferre, aut tute tibi possis subijcere, qui paullo momento ab honesto in prauum abstracti. Vnum modo Neronem mihi vide. Cui elogium hoc tribuit, qui inter Imperatores cognomentum meruit Optimi. *Optimos quoque Principes longe abfuisse a quinquennio Neronis.* At ille idem post bipedum omnium nequissimus, et nullo non scelere infamis. Itaque si lubet hominem sua et iusta æstimatione censere, discite a Platone cenfore æquissimo et scientissimo. Qui cum Heliconi Cyziceno daret literas ad Dyonisium, commendavit quidem hominem, uti humanum et permolestum. Sed in calce commendatitiarum adscripsit, laudare se hominem, hoc est, ut ille interpretabatur, *animantem natura mutabilem.* Atque ita profecto se res habet. Solus ipse mundi Rector æternum in benignitate sua perseverat immobilis et immutabilis: alia omnia stare loco nescia: homo maxime, non in dies solum, sed et in horas versatilis.

Quod petiit, spernit: repetit, quod nuper omisit:

Æstuat, et vitæ disconvenit ordine toto.

Ut meritissimo Poetarum optimi bullæ, somnio, umbræ, frondibus ac folijs humanum genus æquiparaverint: adeo volubili sunt homines ingenio, leves, mobiles, atque foliorum instar, ad quamvis auru-

lam instabiles. Neque novum mirumue sit, eum hominem quem æternus Parens faburra bonæ mentis, aut rationis subsidio contra æstus turbidiorum affectuum non stabiliverit, in scopulos offensæ plus quam tragicæ cupiditatis vento abripi. Sed enim, inquires, eruditio multiplex et interior animi cultus retinaculi vice esse debebant, ne illum affectuum æstus transfuserum abriperet. Certe quidem si legitimum literarum usum consecutus fuisset, et culturæ patientem accommodasset aurem. Sed, prout sunt tempora, vereor ut rectum studiorum finem aut sequutus ille fuerit, aut assecutus. Videas alium literarum peritia frui ad oblectationem: alium ad dignitatis et famæ incrementum: non neminem ad memoriam sui post exactum vitæ curriculum in ævum prorogandum. At quotusquisque eas vult esse instrumentum vitæ per virtutem ac decus agitandæ? Ecquis præstantis doctrinæ adminiculis subnixus, discit affectus magis ac magis habere in potestate? Ecquis sensus animi suapte natura contumaces ad obsequium rationis redigere? Ecquis contra temerarios fortunæ casus celsior et erectior stare? Cum tamen verus ac genuinus iste sit studiorum finis, quo firmior adversum fortuita Rempublicam capeßas. Atqui adolescens hic litteras, credo, magis illecebram ad peccandum esse voluit. E Platonis schola multi tyranni exiisse dicuntur, neque Philosophiæ, neque magistri ipsius culpa: sed scientiæ opinione præferoces, solos se dignos existimarent qui alijs dominarentur. Quid si isthic vitium compar? Fecit saltem ut solent qui animo subdoli ac perfidiosi. Literarum velo pessimarum cupiditatum scenam innumbravit, quo tectius atque occultius se putabat delicturum, eo laxiores habenas ad quidvis audendum animo suo permittens. Quid? quod animum scientiæ studio flagrante non coercuit? quid si literarum intemperantia laborans modum non tenuit? quid si nimis multa scire voluit? et ea nec bona, nec fructuosa, nec legibus concessa.

*Musis animus dum mollior inflet,
Et quæ mox imitere legas: nec desinat unquam
Tecum Graia loqui, tecum Romana vetustas.*

Hoc studium in quod incumbere, stadium quod decurrere illustres adolescentes decet. At illum multifaria ingenij dote, et versatili solertia usum ad naturæ recondita inquirenda, et ea quæ supra nos, ad magicas et illicitas artes addiscendas nimis multa loquuntur, de quibus mox dicemus. Vis igitur scire, Lector, quid de multiplice huius hominis cognitione existimandum habeas? En tibi viam ad censendum, præbit Philosophus non ignobilis. Diogenem memorant, cum in hominum vita Præsides provinciarum, Consultos iuris, Philosophos, Medicos considerabat, dicere solitum, se nihil invenire homine solertius et sapientius: sed cum oculis desisteret ad somniorum Interpretes, divinos, coniectores, ariolos, nihil ineptius et stolidius. Idem hic in pari causâ cense. Quamdiu bonis disciplinis iste animum excoluit, fuerit sapiens, eruditus et adprobus. At postquam Servatoris sui desertor ad dæmonem velut inducijs factis transijt, curiositate non ferenda illusionum diabolicarum socius ac particeps esse fatagens, sit tibi ille idem improbus, insipiens et execrabilis. Et miraberis deinceps, si se noxio illi Genio mancipaverit, si se cum salutis suæ hoste acerrimo quasi colludere sustinuerit, iam superis animum illi lymphantibus, in pessima facinorum præcipitasse. Itaque non est quod de causâ qua impulsus, controversiam ultra mihi facias. Nam quod ais magnum aliquid spe devorasse, quia verum sit illud Arbitri: *Sicut muta animalia cibo inescantur, sic homines non caperentur, nisi spe aliquid morderent.* En tibi viam maxime compendiariam, quæ elatioris animi adolescentes agat in præceps, curiositatis nimiae et magicorum ludibriorum studium. Quis est enim in rebus æstimandis tam frutex, cui ex subiecta narratione cælo clarius non appareat, vanitatis magicæ fuisse consecratorem? Qui illi perpetuus itineris comes, idem characteres perpetim circumgestasse testis est. At characteres eos Magicos fuisse, et modus servandi loquitur, et eorundem voces nefandæ clamant ita manifesto, ut ridiculi sint, si qui cum ineptis suis interpretamentis reclamant. Scribit Athenæus literas Ephesias (ita vocabant antiquitus notulas, siue voces Magicas) ἐν σκυταρίοις ἱαπτοῖσι, id est, in consutilibus pelliculis olim a Magis cum cura adseruatas. Et notulas itidem Govvrius suas libellulo inscriptas in pellicula consutili custodiebat. Quod si nescis quam efficaci crediderit eas esse virtute, id ex ipsis notularum verbis percipe. Quibus si fides, omnes potentes ad bonos Spiritus attrahendum, et malos propulsan-

dum. Huic vim adscribit perficiendi mirabilia, et indubitatae in praelijs victoriae comparandae: illi vim optata impetrandi. Nonnullas etiam efficaces esse voluit adversus adversas hominum valetudines et molestias: ab alijs contra ipsam divinarum legum inevitabilem potestatem (horresco verba referens) promptissima remedia pollicetur. Quid? quod pro ariolo ac futurorum praefcio haberi se discupiebat, et suam in rebus Magicis solertiam apud familiares non dissimulabat. Sed quod apud notos praedicabat Italum quemdam qui apud vulgum maleficus audiebat familiariter sibi cognitum, hinc credo esse fundi nostri calamitatem. Quis est enim in noscitandis adolescentum nostri aevi ingenijs adeo peregrinus, qui non continuo subodoretur Govvrium haereditaria ea scabie pravæ curiositatis prurientem, atque in patris ac aui mores institutaque euntem, consuluisse Magum hunc, quæ fors maneret eum, aut quo fato esset periturus: et veteratoris spiritus astu (ita ut sit) ambigua aliqua responsione fucum illi factum. Quemadmodum enim hedera proceram arborem complexa non dimittit, priusquam eam ad tabem nexu suo perduxerit, ita novum non est etiam præclarissima ingenia, quæ se vanitati Magicæ semel addixerunt, ab eius contubernio non ante explicari, quam in inextricabiles malorum casses præcipitaverint. Habes igitur, Lector, ab aliqua dictione Magica, quæ illi commeritum ab Rege exitium prænuntiaverit, vnam haud dubie infelicitis suscepti causam. Quod si tentas descendere in temetipsum, reperies cuique nostrum suas etiam esse et internas, ut pereundi, ita et in furias et quodvis scelus quamlibet clothurnatum ruendi causas. Habemus enim in nobis tres adversarias potestates, *Ambitionem, Cupiditatem, et Voluptatem*, quarum ministerio impostor ille Genius, omnia sapientiæ præcepta salutariaque monita ex animo expectorans, solertissimum quemque impellit in fraudem. Neque magis solens est ferrum consumi sua rubigine, aut exedi lignum sua teredine, quam homines etiam existimatissimos intercutibus his vitijs laborantes, ad miserabilem exitum perducere. Ergo ut nullum Govvrius characterem circumgestaverit, at vero, hunc vere tergeminum humani generis hostem in pectore, in venis, inque medullis circumferebat. Neque opinor de vindictæ cupiditate mecum pugnabis, quando ipse minister sceleris hoc mantelo celandæ fratris perfidiæ est usus: cum dictitaret se paternum supplicium cæde patris patriæ ultum ire. At ego ambitionem magis suspectam habeo, quæ, ut tu scis, fortunatorum: ut ille ait, *Commune est nobilitatis malum*. Quod si iustabis non esse credibile ut per Regis interitum ille regnum affectaverit. Qua enim spe potiundi? quibus copijs? aut qua virium fiducia? tam alieno tempore, Rege ipso iam tum tribus liberis felici, atque vno horum masculo, puero supra quam credi possit in ea ætacula et animi et corporis viribus inclito: Nobilitate vero reliqua et Principi suo, ut cum maxime addictissima, et tranquillitatis cupientissima. Agnosco equidem si quam ille animi mentem habuisset, nunquam fuisse processurum eo recordari, ut flagitio tam pudendo augmentum Imperij verticem violare, se sacraque Christiana quæ profitebatur, conscelerare non timeret. Sed nimirum stultis ac fallacibus cupiditatum delenimentis deceptus, et imaginariæ felicitatis velut fulgentis animi oculos illi præstringentibus, verum videre non potuit: neque futura satis prævidere.

An æger animus falsa pro veris videt?

Namque (ait ab ævo recentiori scriptor) *Ambitio et cupiditas oculorum meræ suffusiones, veras rerum species nos videre non sinunt, imagines ludibundas oculis obtendentes, visus ludificatriculas*. Scilicet titulosæ amplitudines, stipularum frequentia, opes, cognitiones, affinitates: salutantium, deducantium, imo assentantium turba, populi applausus, iuveni harum rerum insolenti tantos animos fecerant, ut neque satis se cogitaret, neque pericula expenderet, quæ erat aditurus: dum animo obsequitur suo, res cavendas et admittendas iuxta despiciens. Neque mirum id cuiquam videbitur lucifugi Spiritus artes versutæque edocto. Qui impostor solertissimus, non alios cupiditatum quas dixi præstigijs magis sibi mancipat, quam quos fortunatos, temeritatis alumnos, natalibus, opibus, clientelis, inflatos, aut prudentiæ scientiæque opinione nimium sibi confidentes, deprehendit id genus homines suo arbitrio imprimis permittente Providentia. Quamobrem, mi Lector, cum probe cognita atque explorata habeas tum isthæc humanarum cupiditatum blandimenta, tum illa veteratoris Spiritus commenta, putidum sit coniurationis consilium deinceps quærere: pene improbum, si illud non capis, de scelere ipso amplius ambi-

gere. Rem factam habes, coniurationem aëre ipso liquidiores, facinus inter ea quæ ab ævo condito infidiosissimum, atrociissimum, periculosissimum. Et tu etiamnum quæres et euntabere de causâ? Quid si fortasse eam non expedit? Illud scio, si de causâ liquido constaret et fine, mehercle et parricidas magis oderis, et scelus damnare vehementius. Sed quaecumque fuerit in patrandò consilium, saltem noxam illi luculentam nocuisse noscuntur: et pleræque fraudis circumstantiæ in narratione subiecta tanquam in tabella syncere, puriter et ex fide tibi exhibentur. Per quas singulas tecum ire suadet animus, iubet studium veritatis, flagitat meus in te amor, sed ne defundar coerect, et habenas amori ultra permittere vetat, tum acumen tuum qui isthæc per te melius potes et debes, tum verbum illud vetus, *Non debet enormior esse prologus quam fabula*. Itaque quisquis es explica tantum atque exente tuam ipsius intelligentiam, ego spondebo neque rem ipsam in obscuro, neque te diutius in vado hæsitacionis versaturum. Ait Romanus ille Sophus: *Vnius sententiam sequi non esse vitæ, sed factionis*. Tu igitur quo meliorem civem, et Regis reique publicæ amantiorem, quo a factione factiosisque alieniorem probare te studes, eo magis decet te bonis accredere, et de suo Principe pie recteque sentientium coronæ populariter suffragatorem accedere. Si suspiciosus esse pergis, *Nunquam deerit suspicioni argumentatio*, ait Seneca: *Sed simplicitate opus, et benigna rerum æstimatione*. Imo si audis eundem sapientem: *In quibuslibet rebus satius est decipi, quam diffidere*. Vbi vero id tolerabilius, quam vbi falsus existimatioque Principis vertitur? Audi non me, sed consiliarios magni Regis apud Curtium. *In suo quemque periculo magnum animum habere, cum de salute Regis timetur credulos esse debere, vana quoque deferentem admittere*: et tamen an tibi vllum a fraude periculum, hic, vbi nihil supra fidem, nihil ex vano haustum, vbi tam fidi auctores, vbi viri partim illustres et spectabiles, partim parricidarum amicissimi et intimi, testes sunt, et cognitores, fidi, locupletes, omnique exceptione maiores?

Quare nimio satius est, ut opus sit te ita esse, quam ut animo lubet,

Qui animum vineunt, quam quos animus, semper probiores eluent.

Quod si fortasse nonnulli qui omnem fortunarum suarum spem in hoc homine collocaverant, a destinatione sua longe iacentes, malevolentia æstro perciti, non deerunt oppedere veritati: at vos saltem ex hypophetarum ordine, Divino, vti par est, nomine instructos, veritatis emissarios, æquissimum est tam obviam tamque manifestam veritatem obvijs vlnis amplexari. Et quanquam consilio valetis plurimum, tamen quando etiam summi gubernatores in tempestatibus a rectoribus admoneri solent: hoc ab homine amico vobis instillari finite. Sicuti vos decet arbitros esse et prætores omnium officiorum ad pietatem religionemque pertinentium: ita vos omnium subditorum maxime convenit Pitharchicos esse, et Principalibus edictis æquanimitè obsecundare. Quo intentius ad Dei opera speculanda animi aciem dirigitis, eo liquidius quam nos e vulgo Deum adspicitis, in Regis optimi periculo discutendo sese sensibus nostris ingerentem et inferentem. Eapropter vos decet cum primis et istam impietatem execrari, et eius auctorem, quo magis vana quadam simulatæ pietatis specie vobis imponere studebat, hoc lubentius suis verisque coloribus depictum populo spectandum propinare: vtrumque tam strenue atque sublimiter: quam clare atque exaudiliber dampnare. Interest enim exempli in vniuersum, vestrum ordinem hic recte sentire, cuius omnia dicta, facta, significata magnopere pertinent ad exemplum. Neque hic modo, ut facitis vos officiosos exhibete: sed, si me auditis, etiam alias, tum in accipiendis, tum in obeundis non illicitis Religiosissimi benignissimique Principis imperijs non seculosam obedientiam, sed obsequiosam alacritatem adferre. *Ambigua laudis civis est*, ait vetus scriptor, *qui debitis reipublicæ officiis non sua sponte, sed iussus, fungitur*. Quicquid enim imperio cogitur, exigenti magis quam præstanti acceptum refertur. Ut deforme obsequium in isto ordine nemini bono probatur: ita abruptam contumaciam æquis satis sanus non damnabit? Sicuti adulari imperanti non fas, sic nec vltro irritare et sine libertatis, sine incautæ pietatis obtentu pericula provocare. Si Principum ingenia non nostro modulo metiri: sed ad æqui bonique regulam æstimare possemus, est certe cur Deo maximas referamus gratias, quod imperamur ab eo Principe, qui (ut parcissime dicam) modestam loquendi viuendique libertatem a subditis vsurpari æquissime ferat. Verum quia et non immemores moneo, et opinione mea longius

isthæc prouexit oratio, vt iam tandem præfari definam, nec sit, quod dicitur Το πινύγμυ μισζον τῆ θυλάκx, instratum sacculo maius, ad te a quo cœperam redeo, Lector, Epicharmæ sapientiæ nervo olim nimis inhiærentem : at nunc in compertissimâ veritate neque diffidentem vt opinor, neque hesitantem, imo prope non vltra admirantem. Et profecto, vt sunt Divina, humanaque, quid est cur magno opere mireris, vel iuvenem adspirante inconsulto popularis auræ fauonio, et fortuna veluti saccollante in cogitationes erraticas et impias vanescentem, infolentiae fastusque sui Deo pœnas pendere ? Vel Regem optimum ac piissimum, non ab evanidis bonis in mancipio fortune positus estimationem captantem, sed ab animo bene composito et fiducia in Deum firmiter subnixo, veram solidamque gloriam peteffentem, eiusdem Dei benignitate eminentissimum transmittere diferimen ? Si quid est in his exemplis insolens aut mirum, inde ad vitam recte instituendam documenta potius tibi fume. Ergo qua vides iustitiæ Divinæ seueritatem prodigiosis eventibus in facinorosos destrectam, hinc disce inter obsequia Fortunæ cautus incedere : nec scelere cothurnato in offensionem Numinis a quo provocatio non expectanda, sciens prudensque impingere. Rursum qua vides æternam illam mentem pro Rege excubantem, et hostium in caput ipsius iuratissimorum siue animum obnubilantem, siue consilia corruptentem, siue conatus eludentem : quem Deo vnice charum vides hunc tu quoque disce in oculis ferre, magis magisque charum, venerabilem ac sacrosanctum habere : at neque facto violare, neque verbo ledere, neque suspitione offendere : imo vt rectori huic parentique nostro Magnus ille mundi Arbiter ac Rector perpetuus Adles, Præstes, ac Sospitator fiet, necum ex animo precare.

No. VI.

‘ A SHORT DISCOVERSE of the good ends of the higher Prouidence, in the late attemptat against his Maiesties person. Printed by ROBERT WALDEGRAVE, 1600.’

[THIS Tract, which is in duodecimo, pp. 28, is in the valuable Collection of Mr David Laing, by whom it was purchased at a sale of the Library of the late Mr Archibald Constable, who considered the book to be *unique*. Of the author nothing is known ; but it may be conjectured to be one of the compositions of Mr Patrick Galloway, who so zealously defended his Majesty’s character, in his Sermons, &c. It is to be hoped that Mr Laing will soon reprint this rare little volume, and add one more to the many Tracts illustrative of this most mysterious subject. The following extracts may be taken as a fair specimen of this interesting little volume.]

‘ THE ETERNALL Prouidence hauing giuen many markes, euen from the firste conception of his Maiestie, that he is appoynted for great thinges : and willing at last, before his approaches to his destined right, now in the good age of his sister of England (whome he hartilye wiltheth long to liue, and who hath euer had him in the deare account of hir owne soune) that he should be encouraged, be a speciall signe of his high protection and hand with him, and therewith also, haue a further triall, both of his owne and his peoples hearts, invred him first with a dangerous (I must say it) excessse in a Prince ; for clemencie, goodnes and truste, howfoeuer of their nature good, may haue also their owne excessis ; whilk, in the fortune and happs of many potentats, haue so often redounded to their perrell and overthrowe, that Princes haue greater cause to feare sick persons as they haue faued, restored, or made vp, then where they haue done ane iniurie. And thogh sick benignitie worketh euer to good, in the honest and acknowledging hearte, (as his Maiestie hath had good tryall in manie,) yet when it meeteth with ambitious and vngrate persons, it lyeth oppen to sik requytales, as he hath also found in the traytor of GOWRIE and his brother the MAISTER, his destined hangman of his Princis life. But God would so haue it, and that his Maiestie also should abandon him selfe in the armes of their treacherie, and measuring others be his owne sinceritie, shoulde neither suspect fraude and false measure, neither remoueo

his trust from the place where hee had heaped vp so many benefites : But, in the simpleness of his purest heart, being so few, should come in their reach, and being sole and vnarmed, should be brought in the place of death.'

' Our excellent Princis vnattainted heart was of sick pures in the behalfe of the tratore, the newe Angel of Italie, (whose vncertaine maner of port, over popular shoves, with certaine his motions to his Maiesties selfe, might haue well ynough shewen the armes of his heart,) that leauing the small tryne whilk he had at the chafe, accompanied only with his cousings, the Duke and the Earle of Marre (whome God would haue to be witnessis of that whilk should happin,) hauing no other than his hunting horne, he came in their towne, in their house, and the verie snare prepared for his death; where they, beeing ayded with his single heart, and repose in themselves, vnder deceaueable shoves, fand best to invite him; and violating, vnder sick trust, the naturall and publicke faith, attempted the same, he neuer hauing done them anie outrage, but contrarily, with all good fauors, honors and digniteis, enen courted them in a fort, and their whole house. O moste wicked treacherie ! to thirst the drops of the innocent blood of their King, who hath so farr restored, preferred and honored them ! For to lay to his charge the death of their father,' &c.

' Yea, and in these essays, that we heere speake of (so little commerce haue sick designs with Gods assistance, or their own wit) their hart may sayle them, their resolution may wauer, the partie may dash them, or his humanity mease¹ them : a dread, a suspect, a word, or a looke may alter the case : and finally, the protection of God may intercede, withstand, or confounde them. The Earle was ouer wise, the Maister ouer foolish, the other² ouer timide : his Maiesties presence, his resolute heart, his matching the one, his threatning the other, his gayning of time, and calling for ayde, haue their owne regards. But that he leened, and venged himselfe like a good knight, it was of the protection, mercie and influence of Him, bee whose good ordour Kings do rule,' &c.

No. VII.

EXTRACTS from the RECORDS OF THE PRIVY COUNCIL.

PROCLAMATIOUN of Thankisgeving, for his Maiesteis delyuerie.

APUD EDINBURGH, sexto die mensis Augusti, anno 1600.

SEDERUNT.—Cancellarius, Fyvie, Thesaurarius, Secretarius,
Aduocatus, Comptroller, Collector, Clericus Registri, Spot.

FORSAMEKLE AS it is laithie cum to the knowlege of the Lordis of his heynes Preuey Counsale, of ane laith intendit Treasoun be vni^qle JOHNE ERLL OF GOWRIE, and MR ALEXANDER RUTHVEN his brother germane, aganis the persone of his Maiestie, quhome God preserve; and becaus his heynes, praisit be God, be his mychtie hand, by³ all expectatioun, is fauit and preferuit: THAIRFOIR, willing that thankis be gevin to Almightie God, the onlie instrument of that preservatioun: And in consideratioun of the small boundis of any of the Perroche Kirkis, within this burgh, to containe the multitude, the saidis Lordis hes thairfoir thocht meetest, be oppin Proclamatioun at the mercat croce of this burgh, to notife the said happie deliuerance of oure souerane lord fra the said perrill and danger, with the death of the saidis traitouris, sua worthelie deseruit: And thairfore, requireing thame, as it is the pairt of all his deutifull subiectis, to rander thankis to God, for his said deliuerie; and in taikin of thair joy, caus the haill bellis within the burgh to be rung; and at nycht caus mak banefyreis, alaweill within this burgh as within the Cannoin-gate and village of Leyth, efter the accustomat forme obseruit in the lyke caissis, for the vttering of the joy of his Maiesteis happie deliuerance: And hes Ordanit Mr David Lindsay to prais God, within the Kirk for the same; and Ordainis the people to accompany him to that effect.

¹ Maze, bewilder.

² Andrew Henderson.

³ Contrary to, against.

CHARGE, for keiping of the CORPIS of vmq^{le} the Erll of Gowrie and his bruither.

Aug. 1600.

APUD FALKLAND, *septimo die mensis Augusti, anno 1600.*

SEDERUNT.—Lennox, Cancellarius, Mar, Thesaurarius,
Secretarius, Computorum Rotulator, Spot, Kinlofs.

FORSAMEKILL AS vmquhill JOHN ERLL OF GOWRIE and MR ALEXANDER RUTHVEN, his brother, being in the actual execution of a maist horrible and traterous Conspiracie aganis the Kingis Maieftis royall persone, within the said Erllis awin ludgeing, within the burgh of Perth, it hes pleist God, maist miracoulouslie to deliuer his Maieftie fra thair intendit Treasoun, and to turne thair traterous practizeis vpoun thame selffis, quha hes worthelie sufferit death, as they wer in the actual perfute of his Maieftis persone. Quhairfore, necessar it is, that the corpis of the saidis vmquhill Erll and Mr Alexander be keipit and preferuit, quhill forder ordoure be tane on this mater, as appertenis. AND thairfore, Ordanis Letteris to be direct to officeris of airmes, schereffis in that pairt, chargeing thame to pas, command and charge the bailleis of the burgh of Perth, to preferue and keip the corpis and bodyis of the saidis vmquhill Erll and Mr Alexander, vnbureyit; ay and quhill they vnderstand forder of his heyne will and pleasour thairanent. As they will ansuer to his Maieftie, vpoun thair obedience, at thair heichest charge and perrell.

(*Eodem die.*)—LETTERIS, for arreiffing the Rentis of vmq^{le} the Earl of Gowrie.

(*Eodem die.*)—CHARGE, that name of the name of RUTHVEN repair towardis thair Maieftis.

(*Eodem die.*)—CHARGE, for randerig the said vmq^{le} Erllis castellis, touris and fortaliceis of Ruthven, Strabrane, and ludgeing within the burgh of Perth, with the guidis and geir being thairintill, vpoun Inventair, to his Maieftis Thesaurair, &c.

(*Eodem die.*)—ACT, that na thing be disponit of the Erldome of Gowrie, bot be auise of the Lordis of his Maieftis Preuey Counsale.

(Aug. 12. *Apud Halyruidhous.*)—ACT, mortifeing L.1000 yeirlye to the Pair, furth of the reddiest of the fruitis, rentis and dewteis of the Abbay of Scone; in perpetuall memorie of the said happie deliuerie.

(*Eodem die.*)—ACT, aganis the passing of Giftis of the Erldome of Gowrie.

(*Eodem die.*)—ACT, *aganis the MINISTERIS OF EDINBURGH.*—FORSAMEKILL AS vmquhill Johnne Erll of Gowrie and Mr Alexander Ruthven, his brother, haueing maist trateroullie diuifit and conspirit the death and distruction of the Kingis Maieftie, oure souerane lord, be sic a detestable and horrible manner, as hes not bene hard of in ony kingdome or age; it pleist Almichtie God, quha euir hes had a cair of his heyne persone, maist miracoulouslie and wouderfullie to deliuer his Maieftie of that detestable Treasoun; efter the quhilk happie delinerie, and thankis gevin thairfore be his heyne to God, his Maieftie immediatlie, be writ, acquentit the Lordis of his heyne Preuey Counsale, alswele of the said intendit Treasoun as of the said happie deliuerie, and desyrit thame to command the Ministers of Edinburgh to haue conuenit thair feuerall flokis in thair awin kirkis; and thair, publictlye to haue intimat to the people the said Treasoun, and to haue gevin thankis to God for the said deliuerie of his Maieftis noble persone. Lyke as, the saidis Lordis, haueing conuenit befor thame Maisteris Robert Bruce, James Balfoure, Mr William Watfoun and Mr Johnne Hall, Ministeris of Edinburgh, vpoun the sext day of August instant; and the saidis Lordis haueing at lenth oppymnit vp vnto thame the hail forme, maner and circumstancis of the said Treasoun, quhilk wes alsua affermit in thair presence be a honnest and famous gentilman quha wes present, and a ey witnes at Perth with his Maieftie: And for thair farther satisfacioun, the saidis Lordis haueing produceit and schawin to thame his heyne awin Missiue and write in this matter; and thairfor, according to his heyne directionn, haueing instantlie delt and travellit with the saidis Ministeris, and haueing commandit thame to haue repairit to thair pulpettis and kirkis, and to haue certifiit the people of the said Treasoun, and to haue thankit God for the said

Aug. 1600. happie deliuerie; the saidis Ministeris, maist vndewtifullie untrusting¹ his Maiestie and the vndoubtit treuth of this horrible Treaoun, refusit to obey his heyne and the saidis Lordis: For quhilk, they and Mr Waltir Balcanquell, Minister, quha wes absent the said first day be reffoun of his seiknes, being now callit, and compeirand befor his Maiestie and a grete nowmer of his heyne Preuey Counsale; and his Maiestie and his Counsale haueing hard thair pretendit excuisses, and finding thame still constant in thair distrust and doubt, be thair wilfull and obstinat refusall, ȝit to assair and certifie the people of the said intendit Treaoun aganis his Maiestie, nochtwithstanding the constant and trew reporte and declaratioun quhilk thay haue hard, alswell of certane of his Maiesteis Nobilitie, quha wes present with his Maiestie at Perth, as be the Lordis of his heyne Preway Counsale, and be his heyne awin Minister.² THE KINGIS MAIESTIE and Lordis of Secrete Counsale, thairfore Findis, decernis and declairis, that the saidis *Mr Robert Bruce, Mr Walter Balcanquell, Mr James Balfoure, Mr Williame Watfoun and Mr Johnne Hall*, hes maist vndentifullie behait thame felfis to his Maiestie, in the mater aboue writtin; and that they ar not worthie to be sufferit to speik or preiche publiclie to his heyne peopill, at ony tyme heirefter: And thairfore, his Maiestie and the saidis Lordis hes dischargit, and be thir presentis discharges the saidis fyve Ministeris of all preiching, or speiking publiclie to his hienes subiectis, in ony pairt of this realme, at ony tyme heirefter, vnder the pane of deid: And forder, Ordanis thame to remove and depairt furth of the burgh of Edinburgh, within fourty-acht houris efter the dait heirof; and onnawise to reforte or repair, in ony pairt, within the space of ten myllis to the said burgh of Edinburgh, heirefter, vnder the said pane of deid. And Ordanis intimatioun to be made heirof, be oppin Proclamatoun at the mercat croce of Edinburgh; quhairthrow nane pretend ignorance of the same.

(*Eodem die.*)—‘GEORGE CRAGINGELT, HEW MONCREIFF, ANDRO HENDIRSOUN chalmerlane of Seone, PATRIK EVIOT brother to the Laird of Bowtie (Balhouffie), HARY and ALEXANDER RUTHVENIS brether to Mr William Ruthven,’ were ordained to be denounced rebels, for non-appearance before the King and Council, ‘to haue ansuerit to sic thingis as sould haue bene inquirit of thame at thair coming, and layd to thair charge, tuicheing the lait trefounable CONSPIRACIE divisit aganis his heyne royall persone, be vmquhill JOHNNE ERLLE OF GOWRY, and Mr Alexander Ruthven, his brother.

(Aug. 13.)—CHARGE issued against ‘the remanent of the MINISTERIE OF EDINBURGH quha ar not dischairgit, with the hail *Deaconis and Elderis of the Sessionis* of the Kirkis of Edinburgh, that they keip thair ordinar tymes of meiting in thair said Sessionis, &c. and gif thay failzie, or do in the contrair, that incontinent thairefter the said Herauld, maier or officer denounce them rebellis,’ &c.

(*Eodem die.*)—‘ACT, anent the suppleing of the vacand placeis of the Ministeris of Edinburgh.’

(Aug. 19. *Apud Falkland.*)—ANDROW JOINESTOUN, bvrge of Perth, ordained to be denounced rebel, for failing to appear before the King and Council, ‘to haue ansuerit to sic thingis as sould haue bene inquiryt of him, at his cumming, and layd to his charge, tuicheing the lait trefounable CONSPIRACIE,’ &c.

(Aug. 21.)—‘ACT, anent ane solempne THANKISGEVING for his Maiesteis deliuerie;’ with ‘aduyfe of the Commissioneris of the Generall Assemblie, to be maid and keipit, in all the Kirkis of this realme, vpoun the last Tuisday of September nixt, and the Sabbothe nixt and immediatlie following thairefter.

(Aug. 22.)—WILLIAM MONCRIEF of that Ilk fined in the sum of 100 crowns of the sun, and SIR JOHN MELUILL, ‘apperand’ of Carnebie, Kn^t. in the sum of 50 crowns, for ‘thair mutuall geving of levis to vtheris, in presence of the Lordis of Secrete Counsale, sittand in judgement for the tyme, vpoun the tuentie-ane day of August instant.’ And RANSAY, younger of Balmonthe, was also ordained to pay 60 crowns to the Trefurer, for ‘the persuit and invasioun of Ballenden,

¹ Distrusting, doubting.

² Mr Patrick Galloway.

vpoun the Hie-freit of the burgh of Edinburghe vpoun the fourtein day of August instant, his Maieftie being, for the tyme, within the Palice of Halyruidhous; and for the fame, is becum in his Maiefties will.' Aug. 1600.

(*Eodem die.*)—JOHN ERLL OF ATHOLL, *Alexander Lord of Spynie*, . . . *Rynd Laird of Kerfs*, ... *Gairdin elder of Leyis*, and *Gairdin younger of Leyis*, on the one part; and JAMES MASTER OF OGILUY and *Sir John Ogiluy of Craig, kn'*, on the other part, were charged 'to subferyue and delyuer to the officeris executouris of the saidis Letteris, sic forme of Affurance as falbe presentit vnto them, within sex howris nixtefter the chaarge, under the pane of rebelloun,' &c.

(Aug. 31. *apud Glasgwe.*)—'CHARGE, aganis the AULD MINISTERIS OF EDINBURGH.' It is stated that 'his Maieftie is credebilie informed, the saidis perfonis, not onlie still continewis in thair infidelitie and blindnes, malicioullie and wilfullie refuifing to acknawleg the certane treuth of this mater; hot, to his Maiefties forder contempt, they hant and reforte in all pairtis of this cuntrie, difperfig mony vntrew bruitis and rumouris aganis his hienes, practifing be all meanis to foster and interteny his Maiefties fubiectis in the lyk wilfull errour and blindnes with thame felffis, and to lay vpoun his Maieftie, the burding of that, quhilk maift traiteroullie wes deuyfit and intendit aganis his hienes awin perfoun.' The Minifters are therefore ordained to appear before the King and Secret Council 'at Striviling, or where it fall happin his Maieftie to be for the tyme, Mr William Watfon on Sep. 9, Mr Walter Balcanquall and Mr John Hall on Sep. 10, Mr Robert Bruce and Mr James Balfour on Sep. 11; 'to vnderly fic forder punifchment, as his Maieftie and lordis of his hienes Counfell fall inioyne vnto them; vnder the pane of rebelloun,' &c.

(Sept. 10, *apud Striviling.*)—MR WALTER BALCANQUELL, MR WILLIAM WATSON and MR JOHN HALL, appeared in prefence of his Maieftie and the Lords of his Secret Council, 'and of thair awin frie motive, confellit and declairit, that they wer now fullie and throuchlie perfuadit and affurit of the treuth of the Treafonable and vnnaturall CONSPIRACIE, deuyfit and intendit to haue bein execut aganis his hienes at Perth, vpoun the fyft of August laft, be vmq^{le} JOHNE ERLE OF GOWRIE and Mr Alexander Ruthven his brother; and that, fein thair remouing fra the brughe of Edinburghe, thay had not directlie nor indirectlie delt nor tranellit, be publict reafoning or priuat conference, to put ony of his hienes fubiectis in diftruft or doubt of that mater; and that they wald, in publict, manifeft and declair thair said perfuafoun and affurance of this mater, and move his Maiefties fubiectis to do the lyk, and gif thankis to God for the fame.'—This declaration having been gratiofully received, Mr Walter Balcanquell was ordained to 'repair and adref himfelf with all guidlie diligence to Tra-nent, Dalkeithe and Muffilburgh; the said Mr Williame Watfon to Dumbar and Dunc; and the said Mr Johne Hall to Dumfermling, Sanct Androis and Perth; and thair, in the ordiner Kirkis thair of, and upon ordinar preiching dayis, that thay preich to the people; and, in thair Sermonis, that thay mak ane publict and manifeft Declaration of thair awin affurance and perfuafoun of the treuth of the said Treafoun, intendit be the said vmq^{le} Earl and his Brother; and craue God and his Maieftie pardoun for thair ouer lang flawnes and doubting thair of; and thairwithall to moue all men to gif thankis to God for his Maieftais delyuerie; and fchairplie to rebuik all fic perfonis quha continewis doutfull heirin: And that thay report to his Maieftie ane Testimoniall of the Minifter and eldaris of the townis and Kirkis foirfaidis of thair conformitie to the premiffes; that thairefter, his Maieftie may tak forder ordour with thame, as falbe thocht expedient.'

(*Eodem die.*)—'THE BAILZEIS of the burgh of PERTH, representing the hail bodie of the fame,' are charged 'to compeir perfonallie, befor his Maieftie and his Counfell at Linlithgow, vpoun the faxtene day of September instant, to anfuer to the contempt and indignitie done to his Maieftie,' in regard that, after the King's delivery from the Treafon deuifed by the Earl of Gowrie and his brother, 'his hienes luiting for na forder danger or inuafoun at that tyme; nochtwithftanding, it is of treuth, that his hienes wes of new affailzeit and perfewit be a grit nowmer of the communitie and inhabitantis

Sep. 1600. of the burgh of Perth, all in armes, quha environed his Maieſteis hous on all pairtis, affeigit and perſewit his hienes within the ſame, vittering maiſt irreuerent and vndentifull ſpeiches aganis his Maieſtie, his Nobilitie, and certane of his ſeruandis and guid ſubiectis, quha accompaneit his hienes for the tyme, and could nawayis be moved to forbeir thair tumultuous and insolent behauiour; bot did quhat in them lay, be crying for fyre and poulder, and rynnng with jeſtis at the zettis of the ſaid hous, to haue blawin vp the zettis of the ſaid houſe, and to haue expone in haſard the lyfes of his Maieſtie and his guid ſubiectis.¹

(Sep. 11.)—MR ROBERT BRUCE appeared before the King and Council, and obſtinately ‘contnewit doubtfull and nocht throuchlie reſoluit of the trefounable and vnnatural Conſpiracie,’ &c. He is ordained ‘to remove and depairt furth of this realme, betuix and the aucht day of October nixtocum, and onnawyis to returne agane within the ſame; nor yit repair within the realme of England, without his hienes licence had and obtenit to that effect, vnder the pane of deid: And in the meantyme, quhill his depairtur, that he remane in the Place of Airthle, for making of his prouiſioun and furniſhing; and that he addres him ſelf to the ſaid place, this preſent day. And ordanis the Maſter of Counſell to pas and mak intimatioun heirof to the ſaid Mr Robert, that he pretend na ignorance thairof.’

(*Eodem die.*)—MR JAMES BALFOUR, having declared himſelf perfectly ſatiſfied with the truth of Gowrie’s Conſpiracy, &c. he is ordained ‘for ane pruiſ of his amendement and dewtifull behauiour in tyme commeing, and for ſatiſfaction of his hienes ſubiectis, quha be his errour and blindnes hes bein careit with ony ſiniſter opinioun or doubt of the ſaid mater, fall repair and addres him ſelf with all guidlie diligence to the townis of Dundie, Montrois, Arbroith and Brechin; and thair, in the ordinar Kirkis thairof, and vpoun ordinar preiching dayis, that he preich to the people, and in his Sermoun, that he mak ane publiet and maniſt declaratioun of his awin aſſurance,’² &c.

(Oct. 18, *apud Halyruidhous.*)—MR JOHN HALL is ‘reſtoirit, redintegratte and reponed to his full libertie, baith to repair agane to the ſaid toun (Edinburgh), and to diſchaig his former functionn and calling.’

(Nov. 3.)—His Maieſty’s ‘Maſter Porteris and the Iſchearis of his Maieſteis chalmeris’ are ordained ‘diligentlie to ſearch all ſik perſones entering within his Maieſteis Palice, quhome thay ſhall ſuſpect to be armed with ſecretis, jakis, corſlettis or ony vther offensive armour, fauſſing³ thair fuerdis and quilingearis,’ &c.

(*Eodem die.*)—FORSAMEKILL as the grit and monſtrous bavis⁴ and cumpanies commonlie awaiting vpoun Noblemen and Baronis at Parliament and Conventionis, and repairing within his Maieſteis Palice, and to his hienes awin preſence, is not onlie offensive and diſpleaſant to his Maieſtie, bot verie diſthonourable to the nationn,’ &c.; ‘the Capitane of his Maieſteis Gaird and houſe, and his hienes Maſter Porteris,’ are ordained to gif diligent attendance, and ſee this preſent Act reſſane the dew effect and executioun in all pointis; and for this effect, to debar all ſik perſonis as ſhall preſent thame ſelfis, and craue entrie within his Maieſteis zettis, with ony ma nowmeris nor is heirin particularlie preſcryuit and inoynd vnto thame: That is to ſay, enerie ERLE with tuelf perſonis; enerie LORD with aucht perſonis; and enerie BARROUN with four perſonis, gif he be allane, or gif he be in cumpany with ony Nobleman, with his page and him ſelf. And that the ſaid Noblemen and Baronis conforme them to this preſent ordour, vnder the pane of incurring of his hienes wraith and indignatioun.’

¹ This ſmells very ſtrongly of a counter Conſpiracy, on the part of his ſapient Maieſty, againſt the well-lined purſes of the citizens of Perth!—For never was a more pitiful attempt made, to extort a fine from unoffending and loyal citizens. The wonder is, that theſe brave burghers, hurrying to the ſpot, and merely hearing that ‘the Green-coats’ had ſlain the Earl of Gowrie, their Provost, and the Maſter of Ruthven, (who were both greatly beloved,) ſhould have diſperſed ſo peaceably, on the bare aſſertion of the Bailies, that the King was ſafe; without any explanation being afforded them of the cauſe of this bloodſhed and uproar!

² In the ſame terms with the other Act, dated

Sep. 10. See May 21, 1601, of theſe Extracts.

³ Saving, or excepting, their ſwords, &c.

⁴ Beuies.

(Nov. 12.)—ACT, against refetting of JESUITES, or supplying them ‘with meit, drink, houe or Nov. 1600. herborie,’ under the pain of Treafon.

(May 21, 1601.)—THE ACT of Council, dated Aug. 12, 1600, difpenfed with, fo far as regarded Mr James Balfour, Mr Walter Balcanquell and Mr William Watfoun.¹

(Jun. 16.)—‘ACT, anent the fyft day of Auguft.’ The liegis are commanded ‘to keip the faid fyft day of Auguft 3eirlie, folemne fra all fort of handy labour, wark, and ferious occupatioun, quhilk onnywyfe may diftract thame fra the foirfaid exercife of thankifgeving to God;’ ‘and reioyſing for his bienes happie preferuatioun, wrocht fa meraculoullie be Goddis divyne Prouidence.’

NO. VIII.

EXTRACTS from the ACCOUNT BOOKS of THE LORD HIGH TREASURER OF SCOTLAND.

- ITEM, be his Ma^{te}s ſpeciall command, to Robert Ker, paige of honour, thrie ellis grene freis, to be Jul. 1600.
his hunting claithis, at xliij f. the elne, *inde*, ... vj li. xij f.
- Item, vj quarteris of lining, to lyne his breikis, at vij f. the eln, *inde*, ... x f. vj d.
- Item, ane quarter vnce of filk thairto, ... vij f. vj d.
- Item, half ane elne and ane quarter grene ſteming, to be him ane pair of fokis, ... xliij f. ix d.
- Item, lykwayis be his Ma^{te}s directionn, to Johnne Ramſay, Johnne Murray, George Murray and Johnne Auchmowtie, aughtene ell greine freis, to be thair hunting garmentis, at xliij f. the elne, *inde*,
xxxix li. xij f.
- Item, thre ell grene ſteming to be thair hunting fokis, at iij li. v f. the elne, *inde*, ... xliij li.
- Item, to Finlaw Tailzeour four elles grene ſteming, to be his hunting claithis, at iij li. x f. the eln, *inde*,
xliij li.
- Item, lykwayis to Johnne Achefoun, James Cokburne and Robert Walker, huntifmen, to be garmentis, nyne ellis grene ſteming, at iij li. x f. the ell, *inde*, ... xxxj li. x f.
- Item, be his Ma^{te}s ſpeciall command, to Williame Colquhoun, in drinkſiluer of ane cairt that wes preſentit to his hienes, ... x li. xij f. iij d.
- Item, lykwayis be command, to George Murray, to be gevin to ane boy in drinkſiluer, at the preſenting of ane halk to his Ma^{te}, ... v li. vj viij d.
- Item, for mending and repairing of hir Maieſteis litter-geir, ſaidillis, harneſſing, bravis, and all vtheris neceſſaris thairto, as the particular, ſubſcrinit be Robert Stewart, Maiſter ſtabular, producit, beiris,
xij li. xij f.
- Item, delyuerit to his Maieſteis ſelff, to play at the cairtis, in the moneth of Febr 1600, the tyme his Maieſtie wes in the cunſie-houſe of Ed^r, at the mariages of the Erle of Sutherland and Mr of Forbes, ſex fyve-pund-pees, being omittit in the preceeding compt, *inde*, ... xxxij li.
- Item, to his Ma^{te}s fyve ordiner paiges, for thair allowance in ſchone and vther ſmall neceſſaris, the month, comptit, ... vij li. x f.
- Item, to Johnne Achefoun, James Cokburne and Robert Walker, huntifmen, for thair ordiner allowance the ſaid moneth, ... lx li.
- Item, to Alex^r Monereiff, Falconer, for his ordiner allowance this moneth, ... j^c li.
- Item, to ane boy paſſand of Ed^r with clois Letteris to the Erles of Athoill and Gowrie, ... xxxii f.
- Item, to ane boy paſſand of Falkland, of new, with clois Letteris to my Lord Incheaffray and Mr Ruthven, ... xxiiij f.

¹ See Sep. 11, 1600, &c. of these Extracts.

Aug. 1600. Item, the furnitour following, delyuerit to James Inglis, tailzeour, to be twa pair of buittis and tua pair of fokis to his Ma^{tie} for the buk-hunting,

Item, fyve quarteris of grene Inglis stemming, to be ane pair of fokis, at iij li. x f. the eln, *inde*,
iij li. vij f. vj d.

Item, fyve vnces and tua drop-wecht of filuer pafmentis, to put vpoun the saidis fokis, at v li. vi f.
viij d. the vnce, *inde*, ... xxvij li. vj f. viij d.

Item, ane quarter and ane half of taffatie thairto, ... iij li.

Item, half ane vnce of filk, ... xv f.

Item, for ane pair of buittis to his Ma^{tie}, ... vj li. xiiij f. iij d.

Item, ane quarter and ane half quarter veluet, to the heidis thairof, ... v li. xij f.

Item, ane vnce of braid pafmentis, to put thairon, ... xxx f.

Item, half ane vnce of filk, ... xij f.

Item, tua pair of gartanis, ... liij f. iij d.

Item, ane eln of broun Frenche stemming, to be ane vther pair of ryding fokis to his Ma^{tie}, vij li. x f.

Item, fyve vnces and tua drop wecht of golden pafmentis, to put vpoun the heidis thairof,
xxvij li. vi f. viij d.

Item, ane quarter and ane half of taffatie thairto, ... iij li.

Item, half ane vnce of filk, ... xv f.

Item, for ane vther pair of buittis, ... vj li. xiiij f. iij d.

Item, ane quarter and ane half quarter veluet, to the heidis thairof, ... v li. xij f.

Item, vnce of braid pafmentis thairto, ... xxx f.

Item, half ane vnce of filk, ... xij f.

Item, tua pair of filkin gartanis, ... liij f. iij d.

Item, lykwayis be command of his hienes Precept, to William Elphinstoun, for the price of ane horfe; as the said Precept producet testifies, with acquittance, ... iij^cxxxiiij li. vj f. viij d.

Item, be his hienes Precept, to Andro Lord Stewart of Vchiltre, ... I^m li.

Item, lykwayis be command fairlaid, for ane cheinzie and ane belt of goldfmyth work, fet with pearle, with ane pair of garnissingis in the lyk wark, fet with pearle, propynit, in his Maiesteis name, to Sir George Elphinstounes wyffe, the day of hir mariage, ... v^clxxx li.

Item, be command of his Maiesteis Precept, to Peter Brambill, Frenche pavier;¹ as the said Precept, with his acquittance, producet vpoun compt, proporis, ... iij^cxxxiiij li. vj f. viij d.

Item, to the herauldis, trumpetouris and officeris, passand with displayit coittis, to divulgat, at the marcat croce of Edinburgh, the Trea^foun intendit aganis his Maiesteis perfoun at Perth, ... x li.

Item, to certane warkmen that handillit the artailzerie of the Castell of Edinburgh, that wer schot, on the sext of August, ... iij li. iij f.

Item, for hay to be furrage to the cannoneis, the said day, and the vther day that his Maiesteie come to Edinburgh, ... xxxij f.

¹ Perhaps this may be the Rope-dancer, who is alluded to by Melville, in his MS. Diary, as follows: 'At that tyme, (the end of August 1600) being in Falkland, I saw a foscambulus Frenchman play strang and incredible pratticks, upon stented (*stretched*) takell, in the Palace-clos, befor the King, Quein and hail Court. This was politikle done, to mitigat the Quein and peiple for GOWRIE'S slaughter.—Even then was Hendersone tryed befor ws; and Gowrie's pedagog, wha haid bein buted.'—*Melville's Diary*.—A most amusing account is also given of another mountebank, an Englishman, who performed in Edinburgh two years before. 'The 10 of Julii, (1598,) ane man, sune callit him a Juglar, playit sick sowpill trikis vpone ane tow (*rope*) quhillk wes festnit betuix the tope of St Geillis Kirk stipill and ane stair benethe the Croce callit Josias cloise heid; the lyk wes neuir sene in this contrie, as he raid doune the tow and playit sa many paves on it.'—*Birrel's Diary*, MS. Adv. Library. This person was very liberally rewarded for his '*sowpill tricks*' by his Majesty, besides the contributions he would doubtless obtain from the Magistrates and citizens. ITEM, be his hienes speciall command, to an Inglis sportour, that come down upon ane tow fra the cok of the steppill of Edinburgh, xx li.' Another entry, in the same month (Sept. 1598), probably refers to the same person: 'ITEM, lykwayis to David Weir, sportour, be command, vj li. xiijs. 4d.'—*Lord Treasurer's Accounts*, General Register House. The name is likely to have been Vere.

Aug. 1600.

Item, for earyng of the Poulder to the Castell, and of ane barrell of fewintene flane wecht to the trone, to be weyt, quhilk his Maiestie ordanit to be send to Dunbartane Castell, . . . xxv f. iiij d.

Item, be his Maiesteis command, to the trumpetouris, that day that his Maiestie came to the croce of Edinburgh to declair the maner of the Treaoun intendit aganis his hienes persone, . . . v li. vj f. viij d.

Item, to William Leflie, being direct of Falkland in greit haist, to bring the Justice and his clerkis to Court, ... iiij li. vj f. viij d.

Item, to Robert Logane, being direct on hoisbak, to bring fra Mr Williame Fullartoun, the Depositiones of Mr Thomas Cranfoun and George Craigengelt, to be presentit to the Justice at Perth, . . . iiij li.

Item, delyuerit to Johnne Achefoun, huntisman, four d^o (dozen?) of couppillis, and ane lyoun to ilk d^o for his Maiesteis houndis, ... x li.

Item, for furnishing to his Maiesteis buck-hunting, of collaris and lyounis of all fortis, stinckit and fassit, ... lx li.

Item, to ane boy passand of Edinburgh with clois Letteris, from the Counfall to his Maiestie, being in Falkland, ... xvj f.

Item, to ane boy passand of Falkland with a clois Letter to my Lord Chancellor, being in Edinburgh, ... xv f.

Item, to a boy passand of (Edinburgh?) with a clois Lettre, fra the Chancellor to his Maiestie, being in Falkland, ... xvj f.

Item, to ane boy passand of Edinburgh, with some directions to David Moyfie, being at Falkland, . . . xiiij f.

Item, to ane boy passand of Edinburgh with clois Letteris to my Lord Newbotill, Justice Clerk and Mr David M Gill, ... xxiiij f.

Item, to Ar^d Dowglas maister, passand with ane Act of Seereit Counfall to the croce of Edinburgh, and thair, efter found of trumpet, dischargit M^{rs} Robert Bruce, James Balfour, Walter Balcanquell, Williame Watfoun and Johnne Hall, of all forder preiching, in priue or in publict, within ony pairt of this realme, ... xxj f. iiij d.

Item, to the said Archibald, passand with ane vther Act of Seereit Counfall, to the said marcat croce, and thair, efter found of trumpet, commandit M^{rs} Peter Hewat and George Robertfoun, and the Elderis and Deaeonis of all the four Kirkis, to conuene at thair ordinar dyetis, for obseruing thair accoustumat discipline in the Kirk, ... xxj f. iiij d.

Item, to William Forfyth, messinger, passand with Letteris to the marcat croce of Edinburgh, and thair, efter found of trumpet, dischargit baith men and women brnikand the surname of Ruthven (not) to cum neir his Maiesteis person, within ten mylis, ... xxj f. iiij d.

Item, to William Forfyth messenger, passand with ane Warrant of the Seereit Counfall, to charge Mr Andro Lamb to preiche in the Hie Kirk of Edinburgh, on Sunday the fewintene of August instant, ... xiiij f. iiij d.

Item, to Ar^d Dowglas maister, passand with Letteris to charge the Ministrie of the Pretbiterie of Edinburgh, that thai, at the nixt exerceis, on Tyisday the nyntene of this instant, take sum gude ordour amang thame selfis, how the vacand places of the Ministerie of Edinburgh may be suppleit and feruit, vnto the tyme ordour be tane for planting of new Ministeris at the said Kirk, ... xxj f. iiij d.

Item, to ane boy passand of Edinburgh with a clois Letter to the Bailleis of Edinburgh, . . . xvj f.

Item, to ane boy passand of Edinburgh with a clois Letter to Mr James Meluill, Minister at Anstruther, Mr Robert Wilkie, Rectour of St Androis, Mr George Gledstanis, Minister thair,¹ . . . xxiiij f.

¹ Similar entries occur of 'clois Letteris' to Mr Robert Howie, Minister at Dundie; Mr James Nicolsoun, Minister at Megill; Mr Johnne Caldeleuch, Minister at Newburgh; Mr Andro Lamb, Minister at Leith; Mr James Law, Minister at Kirklistoun; Mr James Spottiswood, Person of Calder; Johnne Clappertoun, Minister at Chirreside; Mr William Row; Mr David Lindesay, for the Synode of Edinburgh; Mr William Couper for Perth; Mr James Nicolsoun, for Angus; Mr Robert Wilkie, for Fyff; Mr James Brysone, Minister at Durisdeer, for the Synode of Nythdaill; Mr Johnne Welsche, Minister at Kirkcowsbrycht, for Galloway, &c. &c.

Aug. 1600. Item, to Robert Elder, messinger, passand of Edinburgh, with Letteris, to charge Ramfay, younger of Balmonth, Johnne Ramfay callit the gunner, to compeir befor the Counfall at Falkland, the xix of this instant; to heir and sie thame decernit to haue incurrit the pane contenit in the Act, maid for the restraint of the fechtng, within a myle to his Maiesteis persone, ... liij li.

Item, to William Forfyth, messinger, passand of Edinburgh, with Letteris, to charge David and Johnne Ramfayis, brether to the Laird of Dalhouffy, and Hew Brawnden, to compeir the said day, for the famin purpois; and for summondng of certane witneses to preiff quhilk of thir pairteis wes onfetteris, ... xxxij f.

[Letters are also sent to the Lord President, Lord Advocate, Johnne Oliphant, Register to the Compter, &c.]

Item, to Robert Elder, messinger, passand of Falkland, with Letteris, to charge Mr William Row, Minister at Forgounndynie, and sextene of his parochineris, to compeir befor the Counfall, the xxj of this instant, ... liij f. liij d.

Item, to Johnne Bennet, messinger, passand with Letteris, to the marcat-croce of Falkland and Cowper in Fyiff, and a trumpetour with him, discharging baith men and wemen of the surname of Ruthven, not to cum neir his Maiestie within ten mylis, ... xl f.

Item, to William Forfyth, messinger, passand with Letteris to the marcat-croce of Edinburgh, and thair, efter found of trumpet, chargeing the hail Ministeris within this realme, to keip thair Provinciall Assambleis, the thrid day of September nixt, for publick thankif-gevin, for his Maiesteis preserva-tioun, ... xxj f. liij d.

Item, to Johnne Blenscheillis, Ilay Herald, passand with twa feuerall Summondis of Treafone to the mercat-croce of Edinburgh, peir of Leith, with croces of Hadingtoun, Kinrofs, Perth, Scone, and feuerall duelling-houffis of Dirltoun, Ruthven, Perth, and Scone, and vther duelling-houffis of the personis following; and thair, efter displayit coit and found of trumpet, lawfullie summonit, warnit and chargit William Ruthven, brother and air to vm^{le} Johne Erle of Gowrie, and Mr Alexander Ruthven, his brother, Harie and Alexander Ruthvenis, sonis to vm^{le} Alexander Ruthven of Frieland, Hew Moncreiff, brother to the Laird of Moncreif, Patrik Eviot, brother to the Laird of Bouffie, and Andro Henderfoun, chalmerlane of Scone, to compeir (befoir) our fouerane lord and his Justice, the fourt of November nixt, in his Parliament, &c. xx li.

Item, to William Ramfay, trumpetour, passand to accompany the said Herald, to the pairtis aboue wiittin, ... viij li.

Item, to the witneses, &c. vj li.

Item, for achtene copeis to the said Summondis of Treafoun, ... v li.

Item, for translating of the twa summondis out of Latin in Inglis, ... v li. vj f. viij d.

Item, to William Forfyth, messenger, passand of Edinburgh with Preceptis of Parliament, to be delyuerit to the Erle of Mortoun, the Lordis Seytoun, gester, Newbotill, Home, the Lairdis of Rosling, Bafs, Wedderburne, Cesfurde, Traquair, Robert Scot of Haning, the Commendateris of Melrose and Haliernidhous, the Bailleis of Tynninghame, Lauderdaill, the Sherefis of Edinburgh principall, Edinburgh within the constabularie of Hadingtoun, Berwik, Jedburgh, Selkirk, Peblis, the Prouest and Bailleis of Edinburgh, Hadingtoun, Cokkany, North Bervik, Dunbar, Lauder, Jedburgh, Selkirk and Peblis; and with Lettres to be publisehit at the marcat-croces of Hadingtoun, Dunse, Jedburgh, Selkirk and Peblis; chargeing the Ministeris, within thais boundis, to keip thair Provinciall Assambleis, the thrid Tyifday of this instant, for publick thankif-geving for his Maiesteis delyuerie,¹ vij li.

Item, to ane boy passand of Glasgow to Edinburgh with Letteris, to caus charge the fyve Minif-

¹ Similar entries occur for payments to other Messengers for delivering Precepts and publishing Letters at the market-crosses of the various burghs, &c. throughout Scotland.

teris of Edinburgh to compeir afor his Maieſtie and Counſall, the nynt, tent and ellevint dayis of this Sept. 1600.
 infant, ... xxvj f. viij d.

Item, to James Furde, meſſinger, paſſand of Edinburgh to execute the ſamin Letteris, at the ſaidis
 ffyve Miniſteris dwelling-houſſis, and at the marcat-croces of Edinburgh, Hadlington, and Couper in
 Fyiff, ... v li. vj f. viij d.

Item, to Andro Home meſſinger, paſſand to the marcat croce of Edinburgh, and thair, eftir found Oct.
 of trumpet, inhibit the reſſait or intercomoning with Henrie and Alexander Ruthvenis brether to Mr
 William Ruthven of Frieland, and Hew Moncreiff brother to the Laird of Moncreiff, and Patrik
 Eviot brother to the Laird of Ballhouff, ... xxjf. iiij d.

Item, to ane boy paſſand of Edinburgh, with a clois Lettre to my Ladie Gowrie, ... xij f.

Item, to William Forfyth meſſinger, paſſand of Edinburgh with Lettres to charge Mr Richart Ogill
 Miniſter at Innerveik, and Gibfoun brother to James Gibfoun Miniſter, with certane wit-
 neſſes in the toun of Dalkeith and Eiſt Lowthiane, to the number of xij perſonis, to compeir afor the
 Counſall, the penult of this infant, to anſuer vpoun ſum vnperſonall aplicatiounes maid in thair Ser-
 mones, ... v li. vj f. viij d.

Item, to ane boy paſſand of Edinburgh, with a clois Lettre and ſum directiones; with a clois Lettre
 and ſum vther directiones to young Tullibardin, for tranſporting of the corpis of Gowrie and his
 brother, ... xxxij f.

Item, to ane boy paſſand of Edinburgh, with a clois Lettre to my Lord Aduocat, ... xvj f.

Item, to Johnne Blynſcheillis Ylay Herauld, paſſand of Edinburgh, with Lettres, to ſummond Mr
 Johnne Moncreiff, Alexander Blair younger of Bathok,¹ &c. to compeir befor our ſouerane lord and
 his Juſtice, at the approaching Parliament; to beir witneſſing, in the actioun and cauſe of Treafoun, in-
 tentit and perſewit aganis William Ruthven, brother to vmq^{le} Johnne Erle of Gowrie, and certane
 vtheris, that ar to be convenit for the ſame Treafoun, ... xvj li.

Item, to Johnne Blenſcheillis Yla Herauld, Robert Elder meſſinger, William Forfyth meſſinger, Nov.
 William Ramſay trumpetour, William Baxter, Thomas Wallis and David Young, being ſewin in num-
 ber, for ſupport of thair expenſis in attending fra the firſt of November, that the Parliament wes ſenſit,
 to the ellevint thair of, that the Lordis of Artichis wes choſin, for uerifeing of the executioun of the
 ſummondis of Treafoun intentit aganis Johnne ſumtyme Erle of Gowrie, ... xij li. vj f. viij d.

Item, for the armes² of the perſones that wes foirfaltit, ... xvj li.

Item, to the painteris for Schir Johnne Ramſayis pinſell, ... xx li.

Item, for carying the quarteris of the lait Erle of Gowrie and his brother, to be affixt on the maiſt
 eminent places of Striuling, Perth and Dundie; and for a creill,³ hay, and falt, ... viij li. vj f.

Item, to ane boy paſſand with his Maieſteis Warrantis, to be delyuerit to the Magiſtratis of the
 ſaidis burghis, for this effect, ... iiij li.

Item, to Andro Home meſſinger, paſſand with Lettres to the marcat croce of Edinburgh, and thair,
 efter found of Trumpet, commandit and chargit all and ſindrie Erlis, Lordis, Prelatis, Commiſſioneris
 of barrones and burrowis, that thai, and ilk ane of thame, ryding on horſbak, cled with fute mantillis,
 and vther abuilgementis, requiſit for the honour of the preſent Parliament, repair, attend and accom-
 panie his Maieſtie, everie ane in thair awin rankis, at lenth ſet down in the ſaidis Lettres, xxjf. iiij d.

Item, to William Forfyth meſſinger, paſſand with Lettres to the marcat croce of Edinburgh, and
 thair, efter found of trumpet, commandit and chargit all and ſindrie Nobill men and Barrounes quhilkis
 ar repairit to the Parliament, that nane of thame reſort within the Palice, with ony ma companie nor
 is particularlie preſcryuit to thame, ... xxjf. iiij d.

¹ Here follow the names of the other witnesses.
 Traitor were torn in pieces and trampled upon, at the time of execution of the sentence.

² In token of degradation, the armorial bearings of the

³ A kind of basket.

Nov. 1600. Item, to Alexander Stobo messinger, passand with Lettres to the marcat croce of Edinburgh and Cannongait, and thair, efter found of trumpet, inhibit all his hienes liegis, that nane of thame fuld repair towards any places of his Maiesteis residence, armit with secreitis, jakis, plait-slevis, or ony vther bid armour, ... xlf.

Item, to Robert Elder messinger, passand with ane Act of Secreit Counfall to the marcat croce of Edinburgh and Cannongait, and thair inhibit all his Maiesteis lieges, that nane of thame fuld repair within the rankis of the persounis keiping gaird, vpoun the hie streit of the callayis of Edinburgh and Cannongait, except sic persounes as salbe appointit to await vpoun his hienes Nobilitie and estaitis, vnder the pane of deid, ... xlf.

Item, to Andro Home messinger, passand with Letteris to the marcat croce of Edinburgh, and thair, efter found of trumpet, inhibit the reflett, supplie or intercommoning with Jesuittis, ... xxjf. iiijd.

Item, to Andro Home, messinger, passand with Lettres¹ to the marcat croce of Edinburgh, and thair, efter found of trumpett, requirit that quhaesower of his hienes liegis will bring to him twa of his houndis that ar raikit away, fuld be gratifeit with a horse worth, j li. xxjf. iiijd.

No. IX.

EXTRACTS FROM THE RECORDS OF THE BURGH OF PERTH, and from THE COURT BOOKS OF THE SHERIFF OF PERTHSHIRE.

[THE EDITOR, having been impressed with the conviction that much interesting information might still be gleaned among the Records of the Burgh of Perth, relative to the Gowrie Conspiracy, applied for leave to examine the Books and papers of that ancient City. Immediate access was most liberally granted by the Lord Provost; and the Town Clerks readily afforded every facility, for this purpose; but, owing to the very neglected state of ancient Records, common to almost all the Burghs of Scotland during the last and preceding century, the greatest part of the old Papers, such as Royal Letters, &c. (with the exception only of Title-Deeds and other important writings) had been allowed to be destroyed, as useless lumber. The Council Records and Court Books were, according to the usual custom of Scotland, at the commencement of the seventeenth century, kept very briefly. What follows, is all that bears upon this question, of any general interest. The same facilities were politely afforded, towards examining the Records of the Sheriff's Court. These, however, only notice the appointment of the new Sheriff and his deputy, an abstract of which also follows.]

(1.)

CURIA CAPITALIS BURGI DE PERTH, tenta in pretorio ejusdem, sexto die mensis Octobris, anno domini millesimo sexcentesimo, per Alexandrum Blair juniorem apparentem de Balthiok, Prepositum dicti burgi, Oliuerum zoung, Constantinum Malice, Andream Ray et Thomam Johnestoun, balliuos ejusdem; affirmata.

Quhilk day, conuenit within the Counfall (houfe) of the burch of Perth, the auld Counfell of the famin, viz. James Drummond, Robert Anderfou, Patrick Blair, Mr Henrie Anderfou, Walter Gray, Williame Hall elder, Patrik Grant, Gabriell Marfar. DECANES of craftis, Johnne Ogilbie, Williame Jak, the said Patrick Grant, Andro Cudbert, Williame Mathie, David Rynd, Williame Robertfou, Alexander Farie. Quhilkis persounes aboue writtin, being conuenit for electing of thair Magistratis, according to the ordour; Comperit the said Oliuer zoung, baillie, and producit his Maiesteis clofit Letter; of the quhilk the tennour followis.

¹ There are other two entries; one payment of L.5, 6s. 8d. to proclaim the Letters at Linlithgow, Stirling and Glasgow, and another of L.3, 6s. 8d. for proclaiming at Couper in Fife and Dundee. Other payments are made in January 1601, declaring, that whoever should detain any of the King's hounds 'raikit away,' should 'incur his Maiesteis indignatioun.'

REN,

TRUSTIE freindis, We greit 3ou hartlie weill. Haiffing pruiß and experience of the loyalte, affection and gude seruice of 3ow, the present Prouest, Bailleis and Counsale of þat our bur^t of Perth, We are nawayis myndit that 3e fall be alterit, at þis tyme of 3our electioun approcheing: And thairfoir, haif thocht gude to will and desire 3ou, with sic of 3our nichtbouris as hes wote in electioun of Magistratis within our said bur^t, to continew 3ou and euerie ane of 3ou in 3our particular offices within þe same, without alteratioun or change; quharby We may haue a forder testimony of 3our gud will, honest dewiteis and seruice. Sua We commit 3ou to God. Frome Brechin, this xxviij day of September, 1600.

(Sic subscribitur)

JAMES R.

(Indorfed) To our trusty friendis, The Prouest, Bailleis, counsell, decanes of craftis, and vtheris baiffand wote in the Electioun of Magistratis, within our bur^t of Perth.

Quhilk being red, the saidis Prouest, counsell and decanes, all in an voce, bot wariance, obeyit his Maiesteis Lettir, with all hartie gud will; And thairfoir, continewis the present Prouest, baillies and Counsell, for the 3eir to cum. And becaus of the departour of Oliuer Peblis and of Andro Henderfone, quha is registrat at the horne and summond for Treasoun, the Counsell, be moniest woittis, hes electit and chosin Adame Anderfone and Gawyn Dalzell to be in thair places, for filling of the Counsellis number.

(2.)

(1601, Sept. 14.)—ORDANIS the Bailleis to ward Andro Henderfone, Chalmerlane, as caution for Thomas Broune, for xli. money of Bludie-wytt, committit be the said Thomas to James Stirling, wpone the fyft of September instant.

(1601, Nov. 2.)—Allowis of the spyce and wyne gyffin be the Deane of gild to my Lord and Lady Athollis, quhilk extendis to four pundis xj. s. iij. d.: and to pay himselff of the first casualties in his hand. Allowis also to Andro Arnot baillie, of the spyce and wyne gifin be him to Mr Patrik Galloway, Alexander Peblis and Oliuer Colt, quhilkis extendis to sewin pundis sex schillingis; and ordanis the thesaurar to repay to him agane.

(1608, Aug. 4.)—The Counsell hes ordanit, that the fyft day of August¹ and the fyft day of November, be perpetuallie kept heireftir, for his Maiesteis prefervatione, according to his Maiesteis desire; becaus thir tua dayis are preceillie kept in England and Scotland.

(1611, Jul. 23.)—PROCLAMATIOUN *anent the v day of August*. Ordanis the fyft day of August to be solenlie kept; and the proclamatioun to pas about the toun, viz. 'FORSAMEKILL as, seing it pleist God, of his great mercie, to gewe delinerance to our souerane lord the Kingis Maieste, frome that conspyred Tressoun, within this burch, aganes his Maiesteis maist sacred persone; it becomis ws thairfoir and his gude subiectis to reioyce and be thankfull thairfoir. I thairfoir command and charge, that all the inhabitantis within this burch and suburbis thairof, this day, as being that day of the moneth quhairon his hienes wes deliuerit, gif testificatioun of thair joyfull hartis, by resorting to the hering of Godis word, at the ringing of the bellis, by setting out of bonfyris, and all wther godlie declaratioun of thair willing and contentit hartis.'

(3.)

CURIA CAPITALIS VICECOMITATUS DE PERTH, *tenta in pratorio ejusdem, ultimo die mensis Septembris, anno domini millesimo sexcentesimo, per honorabilem Guilielmum Murray apparen. de Tullibardyn, Vicecomitem principalem dict. vicecomitatus. Sectis vocatis, Curia legitime affirmata; idque virtute literarum Commissionis, f. d. n. Regis, quorum tenores sequuntur.*

JAMES, be the grace of God, King of Scottis, to all and findrie our leigis and subiectis, quhome it effeiris, to quhais knowlege thir our Letteris fall cum, greting: Forfamekill as, þe office of our sche-

¹ Previous orders exist, in these Books, relative to the observance of the day. The present was selected, as showing the continuance of the custom for a number of years.

refschip of our scherefdome of Perthe presentlie vaikis, be deceis of vm^qle Johne Erll of Gowrie, quha vorthelie sufferit deathe, in pe actuall executioun of ane horribill and vnnaturall Conspiracie, intendit aganis our awin persone be him; and seing, pat our leigis and subiectis, inhabitantis within our said scherefdome, and vpairs hawing enteres to fuit justice, befor our schereff of Perthe, ar graittie preiudgit, throw pe want of an schereff to minister justice vnto pame: As also, seing pat pe heid Court of our said scherefdome now schortlie approcheis: And We, willing pat pe samyn Court salbe haldin, and all thingis proper to be handlit and done in pat judgement, at that tyme, salbe formalie and dewlie prosequute and followit furth, as accordis: Thairfor, We have maid, constituit and ordanit, and be pe tennour heiroy, makis, constituitis and ordanis our veil-belouit Williame Murray, appeirand of Tullibardin, our Schereff of our scherefdome of Perthe, &c. &c. Gewin vndir our signet, and subferyuit with our hand, at Dundie, pe tuentie-sewint day of September, and of our regne pe threttie-four 5eir, 1600.

(Sic subferibitur) JAMES REX.

LENEX. HUNTLE. MAR. COMPTROILLER.
SECRETAR. JO. PRESTOUN. MR ALMUSER.¹

THE Schereff foirfaid, hes nominat and creat Mr Johne Moncreiff of Eister Moncreiff schereff-deput of pe said scherefdome of Perth,² Alexander Campbell and Johne Murray, officearis; quha being present, hes gewin thair aithes for dew and lawchfull adminiftratioun of thair offices, ay and quhill thai be difchaigrit.

No. X.

EXTRACTS from the RECORDS of the CITY OF EDINBURGH.

Sexto Augusti, 1^m. VJ^c.—THE quhilk day, ALEXANDER LORD FYVIE, President, Proveist of this bur^t, Williame Maull, Richerd Doby, Thomas Fifeher and Thomas Geddes, bailzeis; David Williamfone, deyne of gild; Johne Jakfone, thesaurer; Henrie Nesbit, Roger McNacht, Johnne Moriefoun, Williame Hammiltoun, Robert Hereis, Williame Speir, Archibald Adiefoun, David Hammiltoun saidler, Robert Cokkie goldfmyth, Patrik Sandilandis deacone of the tailzeouris, Robert Bannatyne deacone of the skynneris, David Heriot deacone of the goldfmythis, and Andro Scott deacone of the chirurganes. My Lord Prouest exhibit and causet be red before thame, and in presens of Mr Robert Bruce, Mr James Balfour, and Ministeris of this bur^t, ane Lettre Misfue direct from Falkland to his lordschip, be David Moyfes writter, declayring, at lenth, the forme and maner the treffonabill Conspiracie intendet be vm^qle Erle of Gowrie and Mr Alexander his brother, for invrthoring of his Maiestie in the said lordis hous, yisterday, at afternone, the fyft of this moneth; and how his Maiestie, be the Prouidence of God, escaippet the samyn. And als, producet ane vther Lettre, presentet be Sir Patrik Mvrray, direct be his M. to my Lord Chancellare, anent the sam mater; and bering ane command to the Ministrie, to conveyne thair flokis, and pray to God for his Maieftis delyuerie; and als, that the Castell fuld schwitt thair haill ordinance; and the baill bellis of this bur^t fuld regne, for joy of his Maieftis preservatioun. QUNILK being red and publikt to the said Ministeris, beand personallie present, thay tuik thame to thair advysement; and the said Prouest, Baillies and Counsell, for thair pairtis, thanket God for his Maieftis preservatioun; and ordanet that the haill bellis of this bur^t fuld be rung, and bayne-fyris fet furth. And appoyntes Thomas Fyfehear and Thomas Geddes to pas to the Secreitt Counfall, and declair to thame the tounis mynd; and to inquire quhen the said bellis fall ryng, and quhow lang.

(Aug. 6.)—THE said Prouest, Baillies and Counfall, beand convenit, at afternone, fyndis expedient,

¹ The Master Almoner.

² The preceding entry is dated Aug. 2, Mr Johne Moncreiff being Sheriff-depute. His reappointment is of course dated Sept. 30, 1600.

and ordanis, that Thomas Fyfehear and Androw Scott be direct to Falkland, to his Maiestie, with thair Lettre Missiue, to congratulat his Maiesteis delyuerie, requyre his Maiesteis owercoming, and to offer the tounis seruice.

(Aug. 8.)—The Baillies, deyne of gild, thesaurer, and maist pairt of the Counfall, beand convenit, vnderstanding that his Maiestie is to cum ower the watter on Monunday nixt.¹ Thairfore, fyndis expedient, that the haill Counfall meitt his Maiestie the said day, in thair best armour; and ordanis at the nichtbouris be wayrnet to that effect, ilk persoun vnder the payne of xx li.

(Aug. 15.)—The Baillies, thesaurer and maist pairt of the Counfall beand convenit, ordanis Johnne Jakfoun thesaurer, to pay to Thomas Fyfehear baillie, the soweime of twenty-ane pundis xj s. for the expenss debursit be him and Andro Scott to Falkland to his M. be directioun of the Counfall, and for thair expenss maid at his Maiesteis landing at Leyth.

(Oct. 3.)—Item, to pay to the lokman,² xlvj s. viii d. debursit be him for transporting of the buittis fra Falkland to this bur.³

(Nov. 28.)—Ordanes Patrick Eleifs thesaurer to pay to the pephereris and tua extraordiner drummeris nyne merk, and to the townes twa swascheris, sax li. fyve s. for thair seruice at this last Parliament; quhilk salbe allowit to him in his comptis.

NO. XI.

EXTRACTS FROM ROBERT BIRREL'S 'DIAREY.'⁴

The 5 day of Auguste, his M. the King, being invittit be the Earle of Gowrie to bankit with him, in the said Earle his hous at St Johnestowne; the said Earle and his brother bearing, or haueing malice and deidlie hatred in thair haitis, aganis the King, thair naturall Prince; thai laid devyfit a way to haue tane his lyiff: Bot the Lord preventit ther intentioun. The maner of the Conspiracie wes—Quhen they fund occatioun that his M. haill Nobillis and courteouris wer gone furthe, the twa brether defyrit his M. to goe and sie thair cabinet. His M., a blif soull! thinking of no ewill, went with thame, quhair they enterit in grips with him, with dageris, to haue slaine him. The King of Kingis, the great God, gaue him strenthe, sua that he cuist the M^r of Gowrie wnder his feit; and befor the Lord his brother come to his M. he cryit our ane window, 'Treasone! Treasone!' In the mane tyme, the foirsaid twa brether had ane mane, standing behind the tapestrie, in armes, with ane twa-handit sword in his hand; quha wes ordeinit, giue thair sould come any helpe, he sould come furthe and keipe the doir till the Murder sould be done. Bot it pleast God that he wes maid powerles, and could not steir out of the place quhair he stuid. In the meine tyme, that hes M. and the twa brether are at the wriffelling, Thomas Erkeine and Johnne Ramsay, hes Ma. Page of honour for the tyme, come rinnin vpe to the cabinet, quhair thair presentlie wes hand payment. At the leift, the twa brether, Conspyreris of his M. baithe wer stikit; and the Lord preferuit the holy, innocent Prince.

(Aug. 6.)—The newis come to Edinburgh, the 6 day of August, that his M. had escappit sic ane danger; quhairat, thair wes sic joy, that the cannonis schott, the bellis range, the trumpettis foundit, the drumes strak. The tounne raise in armes, with schutting of muskettis, casting of fyir-workis and baill-fyirs fet furthe, in sic maner, the lyik wes nevir sene in Scotland, ther wes sic daunceing and miri-nes all the nicht.

(*Eodem die.*)—The same 6 day, in lyik maner, the Earle of Montrois being chanceller, the Master

¹ 'The morne' deleted, and these words interlined.

² The public executioner. Down to a pretty recent date, this officer had a right to his *lock*, or dishful of meal, out of every sack exposed for sale in the market of Edinburgh. This odious tax was afterwards commuted.

³ This functionary is again sent for, with the buittis, on Apr. 16, 1602, by warrant from his Majesty. They are ordered to be sent at the town's expenses; and accordingly the Treasurer is desired to defray the Lockman's charges, until his return with his infernal instrument. The punishment of 'the buittis,' therefore, can scarcely be supposed to have been very frequent, when the pair belonging to the City of Edinburgh was the only pair to be had. Other entries, in the Town Council Records, prove this fact clearly.

⁴ From Original MS. Adv. Lib. Edinburgh.

of Elphingstoune thefaurer, Sir David Morray comptrower, Sir James Elphinstoune secretar, Sir Johne Prestoune collectour, with fundrie wtheris Nobellis, went to the Croce of Edinburgh; and thair, hard Mr David Lyndefay mak ane orifone, and the hail peiple sett doune on thair kneis, gifing thankis to God for the Kingis deliuerance out of sic ane grait danger.

(Aug. 11.)—The 11 day of August, being Monday, the King came owir the watter. The toune, with the hail subarbis, met him ypone the Sandis of Leithe, in armes, with grait ioy and schutting of mufcattis and thaking of pickis. He went to the Kirk of Leithe, to Mr David Lyndefayis orifone. Thairefter, the toune of Edinburgh haueing commit vpe to Edinburgh, and standing at the Hie-gaitt, his M. past to the Croce, the Croce being hung with tapestrie, and went vpe thairon, with his Nobillis. Mr Patriek Galloway, being thair, made ane Sermon vpone the 124 Psalm. He declairit the hail circumstance of the Trefone proposit by the Erle of Gowrie and his brother: Quhilk, the King testefeit be hes awine mouth, sitting vpone the Croce all the tyme of the Sermon.

(Aug. 12.)—The next day following, at 6 houris at evine, the ffywe Ministeris of Edinburgh bannichit, be oppine Proclamationne and found of trumpet, at the Croce; for not affirmment the Kingis wordis, quhilk he ratifiet at the Croce: Thair names, Mr Robert Bruce, Mr James Balfour, Mr William Watfone, Mr Walter Mackankwell, Mr Johne Hall; and chairget thame, that thai com not within tene myllis to his M. nor within ten myllis to Edinburgh; and chairging thame not to teiche and preiche, wnder the pane of daithe.

(Aug. 13.)—The 13 day, ane Proclamatioun, dischairging the Sessioune of the Kirk to fitt with the Elders and deakinis, wnder the pane of horneing and denouncing thame hes M. rebellis.

(*Eodem die.*)—The 13 day, ane wther Proclamatioun, chairging the hail name of Ruthen not to come neir the King, within tene myllis, wnder the pane of Treassone.

(Aug. 22.)—The 22 of August, thair wes execut in Perth 3 of my Lord Gowreis seruantis, viz. Mr Thomas Cranftoune, George Craingelt and ane callit Barroue.

(Aug. 28.)—The 28 of August, the hail freindis, tutouris and curatouris, and bairnis, pretending any richt to the Earldome of Gowrie, summoned to conpeir to the Parlement, the first day of Nouember.

(Sep. 10, 11.)—The 10 and 11 dayis of September, the Minister(is) accusit before the King and Counsell, in Stirling; at quhilk tyme, thai got leiwe to come hame, bot not to preache within the toune.

Mr Robert Bruce commandit to remane in Earth (Airth.) Thairefter, the said Mr Robert Bruce commandit aff the countrie, yitt he remanit the space of 4 dayis; and thene he wes chairgit, that he come nather in Scotland, Ireland nor Ireland.

(Sep. 30.)—The last of September, the King commandit that the fyft day of August shold be keipit as ane soleme day, with preiching and pryer, and thanksgivinge, for hes preservatioun from the Treassone of Gowrie, and his brother and his compleffis.

(Oct. 9.)—The nynt of October, ane Proclamatioun, chairging all thame of the name of Ruthane to pas out of the cuntrie; in speciall, Alexander, father brother to the said Earle, and the said Earle his twa brether.

(Nov. 3.)—The 3 of Nouember, Mr Robert Bruce tuik fea and maid fail at 10 houris at evine, efter he had gotten fundrie chairges to pas out of the cuntrie, wnder the pane of Treassone.

(Nov. 15.)—The 15 of Nouember, being the ryding-day of Parliament, the Earle Gowrie and his brether, and his fathers brother, with twa other and his muncreis¹ of their dependers all forfaulted.

(*Eodem die.*)—The same day, Sir Thomas Erken maid Lord of Direltoune, Johne Ramsay and Hew Hares knychtit, and Sir Thomas Erkenis man made gentleman.

(Nov. 19.)—The 19 of Nouember, the Earle of Gowrie and his brother haulit² to the gibbit and

¹ This seems unintelligible. The other MS., in Advocates' Library, reads 'mantles,' which by no means clears the matter. The scroll from which the MS. was copied, probably read 'hev muncreif,' (Hew Moncreif,) which had been written so indistinctly as to puzzle the transcriber.

² Hauled, dragged in a hurdle.

hangit and quarterit : And thairefter, thair twa headis fet vpoun the haid of the prifone-hous ; thair to stand quhill the wind blaw thame away.

(Dec. 19.)—The 19 of December, thair wes banifchit of the Ministrie Mr Williame Vاتفone, Mr James Balfour, Mr Valter Balcanquell.

(Aug. 5, 1601.)—The 5 day of Auguft, keipit holy day, with pretching baith befor none and efter noon in all the Kirks of Edr. Bail-fyris fet out : Graitt merthe and joyfulnes, for hes M. prefervatioun frome sic ane danger, as the Lord preferue him fra the lyik.

(Nov. 18.)—The 18 day, ane Proclamationne maid, that all thame of the name of Ruthane fould change thair names ; and that thai come not neir the King be 10 mylles, wnder the pane of Treffone.

No. XII.

EXTRACTS from FLEMING'S CHRONICLE.—MS. Advocates' Library.

(May 20.)—The Erll of Gowrie come to Perth, efter fewin 3eiris peregrinatioun in wther cuntreis.

(Jun. 28.)—The executioun of David Drummond, for the flauchter of George Ramfayis man ; the first Justice Court that ewer Johne Erll of Gowrie held, efter his returne.

(Aug. 5.)—The Slauchter of Johne Erll of Gowrie, and Mr Alexander his brother, in the Erllis awin ludgeing in Perth, be Johne Ramfay and Doctour Heres, his Maieftis feruandis. Praift be God ! the King wes faiff fra thair intendit Treafone aganes his sacred perfone. The toun knew nothing till the commoun bell rang.

()—The Toun of Dundie being aduerteist, come all wp in armes to haive spoilzeit the burch of Perth ; bot praift be God, the King knew the toun of Perthis part to be frie.

()—Mr Thomas Cranftoun, George Craigingelt and Johne Barroun, feruantis to the Erll of Gowrie, wer hangit at the croce of Perth, for art and pairt of the Conspiracie.

(Sep. 29.)—Thair wes bonefyres fett furth in Perth, and all partis of the cuntrie, for his Maieftis deliuerie from that Treafone ; and preiching appointit ewerie Tuifday in euerie burch.

(Oct. 30.)—The coirpis of the Erll of Gowrie and his brother wer transportit to Edr, to the Parliament, to be hauldin the first of November ; and wer foirfaltit, the xj of November.

()—Johne Ramfay wes knychtit of West Barnes, and Hew Heres of Cowlland.—Sir Thomas Erkyne maid Lord Dirltoun.

()—Andro Henderfone fett to libertie, and receivit his office of Chalmerlanrie.

(15 Aprilis, 1601.)—The Kingis Maieftie come to Perth, and wes maid burges at the mercat croce. Thair wes aucht punfcheonis of wyne fett thair, and all druckin out. He reffaut the banquet fra the toun, and fubferiuit the Gilde-buik, with his awin hand, ' JACOBUS REX, parcere fubiectis et debellare fuperbos.'

No. XIII.

MEMORIALS of DISCOURSES, SERMONS, and ORATIONS, delivered immediately after the Occurrence of GOWRIE'S CONSPIRACY.

[A GREAT variety of Orations, &c. delivered on the occasion of the Conspiracy, have been printed, both in Scotland and in England, on the recurrence of the anniversary. It has been thought of considerable importance, towards elucidating this subject, to print such of those memorandums of Original and

unpublished Discourses, as have been preserved by the indefatigable Calderwood and Wodrow, in their MS. Collections. They undoubtedly contain the very expressions made use of by various of the orators, who then addressed the people, so recently after the occurrence took place. The intrinsic curiosity and value of these specimens of popular oratory, cannot fail to be appreciated, independently of their connexion with the immediate object of their introduction in the present Collection.]

(1.) DISCOURSE ON PSALM CXXIV. BY MR PATRICK GALLOWAY, *one of the Ministers of the King's Household.*

[THIS Discourse was delivered at the Cross of Edinburgh, in presence of King James, on Monday 11th August, 1600. On that day, his Majesty crossed the Firth, and landed at Leith; when, to use the words of a contemporary writer, 'The citizens of Edinburgh were attending upon him in their armes. Mr David Lindfay, minister at Leith, takes him to the kirk, exhorteth him after thanksgiving to performe his vow, made before times, of performance of justice; at which words he smyled, and talked with these that were about him, after his unreverent manner of behaviour at sermons. Thereafter, he went up to Edinburgh, and sat upon the merk-at-croce, cloathed with tapestry, accompanied with some of the Nobility, where Mr Patrick Galloway made a sermon to the people convened about the cross and the King, in harangue, both tending to persuade the people that Gowrie and his brother had verily conspired the Kings death, and were slain in the execution of the interprize.'—*Calderwood's History*, MS. Adv. Library, Vol. V. p. 393.—This and the other Discourse by Galloway have been often referred to, by writers on the subject of the Gowrie Conspiracy. It is probable that the first of them contains all that was delivered at the time; and the Sermon, to which the other 'harangue' served as the Application, does not seem to have been preserved.—See *Bannatyne Club Miscellany*, Vol. I. p. 141.]

DAVID, the King, composit this psalme, efter that he had bein freed fra the grit danger of his deedlie enemies. In it, he dois thrie thingis especiallie,—[he] fettis doune his danger, his delyuerie fra the danger, and his thanckfulnes to God for his delynerie; and in sick fort, that almost all the thrie is includit in euerie verse. His danger was this, that he had fallin into the handis of men, and men onlie, naturall men, that had not ane spunk of grace, or of that spreit; and the thing that agregis¹ his danger, is the properties of thir men, crueltie and craft; quhilk becomes rather bruit beistis then men. Their crueltie is fett doune be tua comparisounes, ane taine fra beistis, ane other taine fra the watteris;² fluidis, proud and fuallein, that with thair force caries with them euerie thing that is objected to thair force. Thair craft is fett doune, be ane similitude, tane fra the fouller, quha be his craft ourcoueris the poore foull with his nett and catchis it. This is the danger David was in! Or I gang fordward, I obserue ane lessoune, and that for your Majesties vse. Sir! I sie this is not the first tyme that kingis, good kingis, euen kingis quhome the Lord hes chosin according to his auin bert, hes fallin be Godis permissioun, vnto the handis of men, men cruell and craftie, and hes bein delyuert also fra thame. But quhairto? Not to the end, they fuld leif according to the fassoune of the world, bot that they fuld be new men, and schau ther gratitude to God, as David did; heirow, quhilk we fall speick heirefter. As to his delyuerie, it wes not fra man bot fra God, and therfor he opinlie proclames, that excep the Lord had bein with vs, men had suallouit him vp, according to the fassoune of beistis; and therfor, he

¹ Aggravates.

² In the manuscript the letter *v* is generally substituted for *w*; thus, 'watteris,' for 'watteris,' &c. 'with,' for 'with,' &c.; a peculiarity, which it is not thought necessary should be here adopted.

tackis him to God, quhilk is his gratitude, and ascryves his delyuerie halie to him, quhil he sayis, ‘our help is in the name of the Lord.’

This, schortlie, concerning the danger that Dauid was in; his delyuerie, and his thanckfulnes for his delyuerie. The lyck caus we haue in hand, presentlie. Our King, our Dauid, our Anointed, has bein in danger deedlie, and is delyuerit, praised be God ! For the quhilk, baith he, and ye, and we, hes occasioun to be grate and thanckfull to the Majestie of God, the delyuerer. As to his danger, it is lyck Dauidis, he fell in the handis of men, and men onlie : For, as to that man GAURIE, let nane thinck, that be this tratourous fact of his, our Religioune hes reffaut onie blot ; ffor ane of our religiounne was he not, bot a deip dissimulat hipocreit ! Ane profound Atheist ! Ane incarnall deuill, in the cot of ane Angel ! As is maist eident, bayth be this tratourous fact, quhilk he had attemptit ; and also, be findrie other things, quhilk we have receaut be his familiaris, and the maist deir and neir of his freindis ; as the bookes quhilk he ufet, quhilk preiffes him, plainlie, to have bein ane studier of magick, and a conjurer of deuillis, and to haue had sua monie at his command. His maner of living out of the countrie, in hanting with papistis, yea the Pape himself ; with quhom he had not conferance onlie, bot farder, hes maid couenand and bandis with him : As appeiris verie weill ; for sen his hame comming, he has treuellit maist eirnestlie with the King, and his Majestie hes receaued fra him the hardest affalt, that euer he did, fra him ; I say, to reuolt fra Religioune ; at leist, in inuward sinceritie, to interteine purpose with the Pape, and he himself promeisit to furneis intelligence !—Wes sick ane man of the religiounne ? Or can onie man say that our religiounne is stained, be the doings of sick ane man ? Na not ! He wes nothing but ane man ; and our Dauidis danger wes, that he had fallin in the handis of men. Nou, that ye may knau the danger the better, I fall receite the historie to you ; euen as it wes befor my God, quha ane day salbe my Judge, as he sal beir me record, and befor my Prince and Soweraine, and befor yow all, quha ane day fall stand vp and beir witnefs agans me, in cais, in ony point, I lie.

On Twyfsday last was, Alexander Ruthven cam to Facland to his Majestie, and fand him at his pastyme, and defyrit him to ga to St Jonstoun ; and sua, he leidis him fra Facland to Perth, as ane maist innocent lamb, fra his palice to the slauchter-hous. Thair he gettis his denner, ane cauld denner, yea, ane veri cauld denner ! as they kend quha was thair. Efter denner, Alexander Ruthven leidis his Majestie up ane turnpeyk, and throuch ane trans, the dore qubairof, sa sone as they had enterit in, chekit to with ane lok ; then throw ane galery, quhais dore also cheket to ; throw ane chalmer, and the dore thairof cheket to also ; and, last of all, bringis him to ane rounde, skairs fax feit breid, and fax feit weyd, and the dore thairof he lokkit also ; in the quhilk, their was standing ane armit man, with ane drawin dagger in his hand, to have done this filthie turne, the maist unnaturallie, and contraire that dutie quhilk we aw to Princes. Then Alexander coweris his heid, and says, ‘ I am fuir thy hairt accusis thé now ! Thow was the deid of my father ; and heir is ane dager to be awengit upon the for that deid ! ’ Now, judg ye, guid people, quhat danger your Dauid was in ! quhen, as ane innocent lamb, he wes closit wp betuix twa hungerie lyounis, thrifing for his blud ; and four lokks betuix him and his freindis, and his servandis ; sua that they nicht neither beir nor harkin him. This was his danger ! But quhat fort of delyverie gat he ? It was holy miraculous, altogither to be ascrywit to God, and no part to man ! And amang mony that occurrith, I fall poynt out unto you fyue or sax circumstances, quhilk ye will all call and acknawleg to be miraculous ! And first, his Majestie, standing betuix twa armit men, without all kynd of armour, hawing nathing on but his hunting-horne about his neck ; quhen he, at his entry, fuld have bein astonisheit at the sight of ane armit man to tak his lyf, yeit, on the contrair part, this man was sa astonisheit at his sight, that he nicht nether moue fute nor hand : Was not this miraculous ? But yeit, farder, quhen Alexander had tane him be thegorget, and had haldin the dager to his breist, not twa vnce (*inch*) fra it, sua that their was skers twa vnce betuix his heid and his lyf ; yeit, ewin then, be his gracious, christiane, and maist lowing wordis, he ouercame,

the traitour. The wordis wes this: 'Maister! consider that ye ar ane Christiane; and farder, that hitherto ye haue bein tranit wp in the principallis and groundis of Christianitie! And then considder, Maister, how ye wes brocht up in the schuill, quhilk bes fend fo mony noble and haly youth, the Colledge of Edinburgh, vnder Mr Robert Rollok, that haly man, and maist worthy of all gud memory, quha wald never haue teichit yow to put hand in your Prince! And last of all, Maister, suppois ye taik my lyf, nether ye nor your brother will be King efter me; ye (yea), the suljects of Scotland will ruit yow out, and all your name!' Thir wordis sua movit the hart of the traitour, that he beguith to enter in conditionis with the King, and maid him fueir (quhilk he also did) that all theis thingis shold be forȝeit; and that efter, he shuld ever be faworable to him and his brother: And sua, he gaid forth to his brother, fra quhom he resait commissiounne to dispatch him hastily. He then coming wp agane, brings ane pair of silk gartanis in his hand, and efter he had lokkit the door, sayis, 'Tratour, thou maun die! And thairfor lay thy handis togither, that I may bind thé:' To the intent, na doubt, that he being bund, thei nicht haue stranglit him, and castin him in a coif, or pit, quhilk thei had preparit for that vse; that na blud being found, his freindis nicht nifs him without suspiciounne, and not witt quhair to seik him. Now heir is the thrid miracle! The King ansueris the traitour, 'I was borne ane frie Prince! I have list hetherto ane frie Prince! I sal never die bund!' With this, every ane of them greips to vtheris gorgetis, quhill in warling the King ouercoms, and getis him vnder him. Now is not this miraculous? Will ony consider it? The Master of Gourie, ane able young man, in comperisounne with the King, I am assurit had strenth doubill, yea and threfald greiter nor the King, and yett is ouercome and castin vnder. Quhill thei ar thus worling, up comes John Ramsay, be the black turnpyk, and at the Kings command, gives the Master ane deid straik. Now yett ane miracle! My Lord being in the close, quhen he hard that the Master was slayne, sa he had bewichit the hartis of thir people of Parth, be the counterfeit vertewes he had begun to kyth amang them, that gif he had cryit, 'My brother is murtherit!' the same people had saikit that same bailhous: Bot yett, sa the Lord directis be his Providence, that he coms vp the steir, immediatlie, with aucht with him: And mark, how that same word quhilk thei had preparit to be ane word for the keiping clos of thair knavrie, God vsit as ane mein for the preservatiounne of the Prince: For thei had appointit this for their wachword, 'The King is gane to the Vnce!'¹ Quhilk word his servandis heiring, ran about to meit his Majestie in the Vnce; and going by the window, quhair the King and the Master was worling, hard the Kings skreichs and cryis; quhilk bes tane sic impressiounne in their hairt, that, sa long as they leif, will never gang out of them, and is heir sitting to beir witnes to it. The cry was, 'Treasounne! Fy! Help, Yearle of Marr! I am murderit!' The Kingis servandis heiring his cryis, incontinent cumms vp this black turnpyk: Now yett ane miracle! Into the chamber with the King is only four; twa ladis and twa men, and ane of the men mutilate:² My Lord, ane man weill exerceisit in his arms, coms vp, and aucht with him; and at the first, cals vp all thir four in ane nuik;³ and never stayis, quhill Jone Ramsay chancit to cry, 'Fy upon the, cruel Tratour! Hes thou not done evil anuch ells? Thou bes gotten the Kingis lyf ells, and wald thou have ouris to?' At quhilk speiche, he drew ane lytle bak; and in bak-going, he gat the straik quhair of he deid.

This is the vary [trewth] of the fact, quhilk I haue resait, (not be the Kingis Majestie,) bot be him quha shuld have bein the doar of the turne. He is livand yett; he is not slaine; ane man weil anuch knavne to this tounne; Andro Henderfounne, chamberlane to my Lord of Gourie. This day I resavit ane letter fra him, wrytin be his awin hand, subscryvit be his awin hand: Ony man that wald sie it, come to me, and sie gif thei can knaw his hand-wryt, for their satisfaciounne. The tennour of the letter is this: 'It is of treuth, that on Twyfsday last, I was commandit be my Lord of Gourie, to ryd with his brother to Falkland; fra the quhilk he fend me bak againe to tell my Lord, that the King

¹ The South Inch of Perth.

² 'Dr Herries,' Sir Hugh Herries of Cousland had a club foot, which would of course impede his motions in fencing.

³ At the first onset or assault, forces or drives them up into a corner.

was comming, and to bid prepair for his comming. My Lord commandit me to put on my secreit, and my plait sleif, and to wayt on the Master, and do quatever he bad me. At the Masteris lighting, I went to him, and tauld him of my Lordis command, quhilk I had resawit. He taks me with him up a turnepyk, throw ane trans, ane galrie, and chamber, and loks me into the round that gois aff the chamber: at quhilk doing, I beguith to grow fleit, and suspect sum evil agans the King; and then I tuik me to my kneis to pray, that it wald pleis his Majestie never to suffer me to be imployit to fiek ane turne: And quhill I was setting on my kneis, Mr Alexander come into the round [with the King in his hand.] The rest of his narration differs almost nothing from this¹] quhilk ye have hard, according to the Kingis informationne: This only, he felchew the maner how he chappit² to have bein thus: Quhen the King and the Master war worling, he opnit the dore and gaid doune be the black turnepye,—be the quhilk the Kingis servands came up, and saifit him.

This is the verity, quhilk will fatisfy any gude subject; for as for thir romuris that gois, that the King was ane doar, and not ane sufferer; ane persewar, and not persewit, it is not true, nor lickly:—For think ye, hawin fiek ane turne in his hand, he wald go to thair towne, in quhilk he was sa meikle esteimit, accompanyt with sic few folks, only ten persouns; and sic men, quha as I am assurit wald have bein content to have bled their hail blud with my Lord of Gourie, and it had not bein in ane actionne agans the King! The Duik his good brother, the Yearle of Mar his good father, quha, at that unhappie and curfit tyme he was baptizit, gave him the name. As for sik as will not be satisfieit with this, let them perisich in their incredulitie: Their is evidencis anuch of the verity. Now, quhat am I that speikis thir thingis? Ane, (as I will pretest befor God,) quha lowit the Yearle of Gourie better nor any flesch in the eirth, acceptis his Majestie.³

(2.) *EXTRACT from a SERMON on the Conversion of Zaccheus, Luke, cap. xix.*
By MR WILLIAM COWPER, one of the Ministers of Perth.

[THIS Discourse was preached in St Giles's Church, Edinburgh, Sunday, August 24, 1600. Cowper had been sent for, to preach in one of the vacant churches of Edinburgh, after the Ministers there had been banished from the town; as stated in Mr Bruce's Account of his Troubles at that time. The Application only of Cowper's Sermon has been copied, as being all that relates to this transaction. The MS. volume containing it, along with other of his Sermons, supposed to be in his handwriting, at one time belonged to the late Mr Scott, one of the Ministers of Perth, who has made particular mention of it in his History of John Earl of Gowrie. It had formerly been the property of George Adamson, and subsequently belonged to Mr James Cant, the well-known Editor and annotator of an old Historical Poem by Mr Henry Adamson, from whom Mr Scott obtained the MS.]

QUHAT fall we doe then, bot haue our recourse to that grace of Jefus Chrif, that onlie is able to change vs? And especiallie, let vs seek it at this tyme, that now we abyde not in the hardnes of our heart, quhen the Lord, both by his word and works, is sa fast calling for our repentance; and I think, amongst all the works of God that feruis to humble us, this last miserable enent is one of the first.

I know there is mony of yow bot thinks of it as I did my self quhen I heard first of it: I thought, indeid, he had sufferit as ane innocent; and quhat greif then it wrought in me, my owne conscience beareth me record! The lose of an earthlie cretur went neuer so neir my heart. And the first thing

¹ In the MS., which is in a contemporary hand, with a few corrections, apparently by the author, some words are illegible; but are supplied from Calderwood who has inserted both of the Discourses by Galloway in his History.—MS. Hist. vol. v. ² Escaped. ³ Calderwood, mentions, that after the foregoing 'harraugue' was ended, they sung the 124th psalme; and makes the following remark: 'Mr Patrick Galloway his haraungue did not perswade many, partly, because he was a flattering preacher, and partly, because others were named before Henderson to be the armed man in the studie; to wit, Oliphant, Leslie, and Younger, who was slaine.' Henderson is described as 'a man of low stature, rudie countenance, and brown bearded,' and the King himself being asked 'by the Goodman of Pitmillie, "whether Henderson was the man?"' Answered, That "it was not he, he [the King] knew that surrick well enough."

that ever chiled my affectioun toward him, wes ane appeirance that he had gone without the compas of godlines;¹ quhilk maid me then to say thir words vnto my people; ‘I know,’ said I, ‘it is light that first mon satisfie your discontentit myndis; and, thairfore, the Father of Light fend light! Bot I am forrowfull from myne heart, that the light that is, maks against him quhom we loued; and if this light break out as it is begunne, we will find our selues disappoyntit of our hope!’ And that quhilk I spake than vnto thame, I speake presentlie vnto yow: ‘The light, that hitherto God hes discoverit in that matter, enclynes to the cleiring of his Majesties innocencie, and layis ane blame on the other.’ And if ye craue my reffoun, I say, it is the testimony of his seruant, that presentlie is in prifoun;² quhilk, in my judgment, is mekle to be regairdit: For I haue knowen him now this four or fyue yeiris bygane, and can give him no other witnes, bot that quhilk both toune and countrie will giue vnto him; that is, the testimonie of a man that feareth God, and delt vpryghtlie with all men. And quhair as, some of yow thinks that he is bot ane suppositius man, and that his Deposition is rather a policie then any veritie; that is mair incredible to me, nor any other thing of this actioun vnto yow; and if my testimonie can haue any credit with yow, I will beare to yow record, that it is verifeit vnto me by honest men of our toune, that he wes seene come down the stair from that chalmer quhairin the King wes, before any of the Kingis seruants enterit vp, except only John Ramsay, or before my Lord enterit in. And quhat his Deposition is, I will tell yow shorthlie,³ &c. Now, [before] I leaue this, there is thrie thingis I will touch shorthlie: The ane is concerning the bretherin of the Ministrie: This doing of myne may seeme to condampne thame in a fault; bot I hope no wise man will thinck so, quhen he considereth, that ane preachour may speake that with ane warrand, quhilk ane other may not. The nixt thing concernis his Majestie: We are to craue of God, that this wairning may work amendement in him, and a great caire to purge the countrie of the great contempt of the Gospell, and of the innocent blud, quhairwith it is defyled: For I saw neuer yet thir great temporall delyuerances fra danger, quhair they wrought not a turning of the heart vnto God, bot they were ay for-rinners of ane greater temporal judgement. And the last concernis yow that are his People: I exhort yow, in the name of God, to thinke reverentlie of your Prince; remembring, that Salomon binds your consciences not to speake ill of him, even in your secreit chalmers.

(3.) *The APPLICATION of the XXX PSALME, Prechit be MR PATRIK GAL-LOWAY, the last of August, 1600, befor his Majestie, in Glasgow.*

Now I suld end, gif I had not to let you sie, in the Applicatioun of this Psalme, that as Dauid and his pepill had than just occasioun to prais God, sa our Dauid and we haif now just occasioun to prais God: Dauid than in danger, our Dauid has now bene in danger; Dauid than delyuerit in the heich mercie of God, our Dauid now delyuerit in the heich mercie of God. Now, the Lord of Hevin, that is present with us, as he has gevin us proif of the ane, sa mot he gif us the proif of the wther, that we may be thankfull for this great grace; for, concerning the danger, Dauid was neuer in gretar danger nor our Dauid; his delyuerance, neuer mair magnificent than the delyuerance of our Dauid; and thairfor, we haif as just occasioun, as euer Dauid had, to prais God. Tak tent then; I think thair is heir na small number that neuer hes hard the danger quhairin the Kings Majestie has bene in; or gif thai haif hard, than haif thai hard a poysonit wntreuth. Thairfor, to cleir the treuth, I will thaw yow the storie trewlie.

His Majestie, be persuasioun of the Master of Gaurie, was led fra his pastyme to Sanct Jhonestown, (tak tent that ye may efchew fals informatioun!) Quhen he comis thair, and enteris in my Lordis

¹ This, Mr Scott, in another place, asserts to be ‘the Earl’s being infected with the weak and criminal credulity of those times, with regard to pretended Prophecies and use of Enchantments. That he was so infected seems to be incontestable.’ ² Alluding to the evidence of Andrew Henderson. ³ The Deposition of Henderson is not contained in the Manuscript, but it had been read to the people at this place; at least an abstract of it would be recited.

ludging, efter ane cauld denner, and ane far caulder welcome, his Majestie is tane be the hand be the Master of Gaurie, and led wp ane stair, thre or four durris all lokit on his bak, nather friend nor servant with him; and thair is sitting a man, preparit to joyne with the wther, to the tressonabill murdering of his Majestie! Quhen he is fet betuixt these twa, the Master of Gaurie, a vyll tratour! na foner cumis the King in, but to testifie that all reuerence of a Christian to his God, and of a subject to his prince, was strampit wnder fute, he puttis on his hat, drawis his dager,¹ and sayis, ‘I fall now be avengit on thé for my fateris slauchter.’ But the Lord slayit the dager, that he ducht not stryk with it. Quhen the ire of this tratour was sumthing mitigat, be the Kingis modest language, he gois out, leifing the wther man to keip him; appeirandlie, to get furdre resolutionn of his brother. Agane he cumis in, as a wod lyoun, and enteris wpon his Majestie, with his gartanis to bind him. Nobill men, and citicens of St Jhoneftoun, hard his Majestie cry, ‘Tressoun! I am mureidreit!’ as the voyce of ane half deid man. Let vyle knavis say athort the cuntrie quhat they will, this is the treuth! I ken weill thair is mony furmises of the pepill castin in withal, to breid ane evill confait of the Kingis Majestie, in the hairtis of the pepill. I will tell pairt of thame. This is ane: ‘How can it be sik a nobill man as the Erle of Gaurie, sa weill brocht up, culd haif fosterit sik a tressoun?’ This wald appeir to carie sumthing with it; but, in very deid, hes na probabilitie. If the Erle had bidden still in Scotland, and keipit that education quhilk he gat wnder that worthie man, Mr Robert Rollok, he mycht perchance not haif attemptit sik ane tressoun. But quhen he zeid to Padua, thair he studieit Nigromancie: his awin pedagog, Mr William Rin, testifies that he had these characters ay upone him, quhilk he luist sa, that gif he had forgot to put thame in his breikis, he wald rin up and down lyk a mad man; and he had thame wpon him quhen he was slain: And as thai testifie that saw it, he culd not bleid sa lang as thai war wpon him. He that this wyfe castis of all reuerence to his God, quhat reuerence can he haif to ane eirthlie king? Ane wther questioun, I ken, wilbe muist. Sum will say, ‘Sall we trew² that he culd haif devyfit, his allane, sik a tressoun?’ ‘Culd he haif enterpryfit sik a work without a bak?’ I dout not bot he had ane bak! The Lord discover it! And I am assurit he fall at last discover it! And, as I haif said befor to your Majestie, I say yet, and ye try it not out, ye fall yit sum day mak us all ane sorrowfull morning; if ye rype not wp the fontaine thair of, it is a manifest tempting of God! And I exhort your Majestie and Counfall to do it, as thai will answere to God, befoir quhom thai salbe countit tratouris, one day, if thai keip up the leif chope of it, quhilk they can try out. But to meit the questioun, It is na meruell, suppois it be hid, for the Erle of Gawrie was a man of exceiding great seecreie; thair was not ane man he wald reueil it to. His awin pedagog, Mr William Rin, said, that the Erle, talking of tressoun against Princes, said, that ‘gif the rycht hand wist quhat the left hand was doeand, he was not to be compted a man:’ and thairfoir, I trow indeid, thair was none wpon the foreknowledge of the execution but the Erle, and his brother, and the Deuill, that led thame bayth. I ken thair wilbe a third question, ‘Is thair nane can beir witnes to it?’ God forgiue thame that say, ‘the King is a pairtie, he can not be beleuit;’ and thow war a guid Christian, thow fould rys up and say, I am ane pairtie, and the King, that neuer hes bene a liar, suld be beleuit him self, and not sik suspicious furmises spred abroad. But I go on: Thair was thair nobill men, his Majesties seruandis, and citicens of Sanct Jhoneftoun, quha saw his Majestie carieit thair

¹ Calderwood, who strenuously professes disbelief of the whole matter, makes this observation:—‘In this harangue Mr Patrick saith, that Mr Alexander “drew his dagger,” which would seem to be his own dagger, and not the armed man’s standing in the study, as is related in the discourse. But it is certain that Mr Alexander had no dagger. But leaving this speech as ambiguous, it is to be considered, That Mr Patrick doubteth not but he had a back to the enterprize, and prayeth the Lord to discover it, exhorts the King and Counsel to try out the fountain of it: And yet, forgetting himself, he saith immediately after, That the Erle was a man of exceeding great seecreie; and there was no man to whom he would reveal it; and that he believed there was none upon the foreknowledge of the execution, but the Erle, and his brother, and the Devil. The circumstances that are most unlikely, Mr Patrick turnes all into miracles; but here is need of a true and seen miracle indeed, to make unseen miracles to be believed.’—*Calderwood’s Hist. MS. Advocates’ Library.*

² Trow, believe.

without ony wapin, but his hunting horne about his craig; fowr durriss all lokkit wpon him; my Lord Duke, the Erle of Mar, baillieis and burgeffes, faw his handis in the Kingis face and throt. If they will not beleue thame, quhom will thai beleif? Fy wpon wneredulous and malicious hairtis! I fay mair for the treuth: Andro Henderfoun, a man to that hour approuit guid and zealous, and without spot all the dayis of his lyf; this man, perforce, is put into the rowme, without ony foreknowledge; this man yit liveth; euerie man hes acces to him; this man, as befoir he was maid be God ane instrument to faif the King, fa now he is maid ane instrument of the Kingis honour, to tell the treuth. I muft fpeir heir, becaus sum fayis, 'Quhill we fie him die on the scaffald for it, we will neuer beleif it!' Fy on it! that his Maieftie fould execut him that fauit his lyf, for thair plesour! I man fay, in my confeience, that man is rather worthie of rewaird nor of punillment; and I trow, not a man that feiris God, but he will consent to it. But he was put in, be the providence of God, to be ane instrument of your delyuerance. Now, as ye haif hard the danger, tak tent also how he was delyuerit. As Dauid faid, 'Lord, thow hes exalted me, and not maid my fois to rejoyis ouer me,' iustlie may your Maieftie fay, 'I was in deidlie danger, and thow, Lord, hes luikit on me.' Quhen I confider his Maiefties delyuerance, I man fay, thair was not ane circumstance of that actionn, but ilkane is a wonderfull prefervationn! First, quhen the Erle of Gaurie and his brother takis that man, and puttis him in, and fayis to him simplie, 'Do quhat my brother commandis thé,' they thought he fuld haif put to his hand to do the turne; but God cumis down fra bevin, and alteris the man. Na foner cumis the King in, but he cryis, 'Allace! allace! wo is me!' Is not this ane great work of God? He that fuld haif flane his Maieftie, is maid ane instrument of his fafetie! And quhen the Master of Gawrie is bringand down, to flay his Maieftie, he withhaldis his hand. Thridlie, quhen the master of ane cruel tiger is maid as it war ane dow, faying, 'I will promeis yow your lyf, fir, gif ye will hald your twng.' Fy, tratour! Quhat had he to do with his Maiefties lyf? But he is mitigat be the Kingis modeft wordis! 'Ye and I cum in wnder freindship; ye ar a Christian, brocht wp under that guid man, Mr Robert Rollok; quby wald ye put handis in your Prince?' With this he gangis out, and shortlie cumis in agane, and as a tiger enteris upon his Maieftie. This is a mervell! He was far beyond the King in strenth; and yit the leving God fa strenthened his Maieftie, that he gat him wnder his fute. And laft, quhen the Erle of Gawrie caufit cry, 'The King is away!' they, running out to follow his Maieftie, heir his voyce. Agane, quhen the Erle, and fevin men with him, cumis in againft fowr, he himself is flane be these fowr, and the rest of his cumpanie hurt and put to flicht. Yea, had Gawrie bidden still on the calfay, and faid, 'The tratouris about the King hes flane my brother,' all the men of Sanct Jhonestoun had rushit in with him. But the Lord wrocht wtherwys! And thairfor, as Dauid faid, fa fuld your Maieftie fay, 'O Lord, I will magnifie thee, becaus thow hes exalted me.'

Now, becaus it is faid, als fallie as 'the fone shynis not,' the King 5eid to Sanct Jhonestoun to flay the Erle of Gawrie, (sic is the spreitis of malicious hairtis!) I wald now haif you, indifferent pepill, quhen the Master of Gawrie cumis to Falkland, and muiffis him to come to Perth, I think not threttene in his companie, Judge gif he wald have come to Sanct Jhonestoun, quhilk was Gawries Londoun, thair to haif flane him? Agane, if he wald haif brocht my Lord Duke, the Erles guid brother, and the Erle of Marr his godfather, with him, gif he had bene myndit to flay him? Judge laft of this, quhen his Maieftie is led be the Master of Gaurie, and feperat fra all his folkis, put in ane lytill round, haifing nathing but a hunting horne about him! Let indifferent pepill judge heir, whether his Maieftie wald haif bene myndit to flay the Erle of Gaurie or not? Now, quhen I haif fhawin yow the danger, and Deryne delyuerance, fie quhiddir our Dauid fuld not fay, 'I will magnifie thé, O Lord, becaus thou hes exalted me!' Quhair he fayis, 'Sanctis fing praisis for me!' Sie gif we have not juft occafloun to prais God for the delyuerance of our Dauid; for wofull had bene the eftait of Scotland, yea wofull darknes, if the Lord had not wrocht this delyuerance! The Lord gif your Maieftie a thankfull hairt, and to ws, your fubjectis thankfull hairtis, for your delyuerance!

(4.) 'ANE ORISOUN,' *delivered before the King in Glasgow.*

[THE following curious paper is taken from *Calderwood's MSS.*, preserved in Wodrow's Collections, Vol. xliii. No. 59, Advocates' Library. Calderwood records, in his Church History, that when the King arrived in Glasgow, there was likewise 'an ORATION made to him, be one, in name of the Town; congratulating him for the delivery out of the late danger; with a commemoration of their service to him and his progenitors.'—*Cald. Church Hist. MS.* V. 420. This concludes all the Original MSS. known to the Editor, which preserve notices of popular Addresses of this description, on the subject of the Gowrie Conspiracy. The Editor has again to acknowledge the attention of Mr David Laing, who obligingly communicated his transcript of this paper, which agrees with another copy made by the Editor; and has also been collated with the original Manuscript.]

ALTHOCHT, maist gracious Sovereigne, it hes bein breiffie, in the Latine tung, declairit, quhat is the dewtifull luif of your Hienes subjectis towardis your Majestie, and grit rejoicing for that happie delyverie of your Majesties maist noble persone, fra that trefsunabill and detestabill attempt and Conspiracie agaues your Majestie, at Saint Jhonstoun, yit, please your Majestie, let it not seame tedious, in few wordis, for the satisfaccioun of the present auditour, tuiching the fume of the mater spokin, quhilk I tak up be this. That albeit, we haue had oftintymes ane joyfull sight of your Hienes presence, praying for your Majestie preservatioun and prosperous reigne; becaus our dewtie, prescryvit be God and rewle of nature did so requyre: For nane thair is sa ignorant, misknawing materis of estait, quha may not knaw, that in your Hienes preservatioun standis his awin; and that vpon his Majesties lyf dependis the lyf of all. Nevertheles, feing laillie God, of his mercie vonderfull towardis your Hienes and ws your Maiesties subjectis, hes delyverit your Majestie fra the detestabill, cruell, and maist barbarous Conspiracie, attemptit be vmquhill Jhone Ruthven, Erle of Gowrie, and Mr Alexander his brother, we haif grit mater of joy and glaidnes of heart, and gritter then can be expreffit be outvart signes. For glorious and happie vas that day quhairin your Hienes subjectis did sie your Majestie delyverit out of that feirfull danger, and present perrel of your Hienes lyf, for thair is na man quha may not sie, quhen your Hienes, the father of the commoun veill vas preservit, that the haill estait, lyklye to decay, vas preservit frome ane feirfull desolatioun and wofull miserie, quhilk had ensewit vpon the haill inhabitanes of your Hienes realm. Therefor, your Hienes subjectis, of ane naturall and inteir luif towardis your Majestie, acknawledgis, vithe thankfull hartis, the presence of Almightie God, vatching at all tymes ower your Maiestie; and in speciall, this vonderfull benefeit of your hienes preservatioun; rejoicing gladly for the same, and vissing maist earnestlie that your grace may enjoy ane long lyf, beautifeit vithe all blissingis of the Almightie God. Your Maiestie beholdis how the faces and countenance of all men are set vpon your hienes, quhat manifest signes and evident taikinis apeiris of that exceiding glaidnes and joy, quhilk, conceavit in hart, burstis furthe in tung, vord and countenance! Behold! the citie of Glesgw, quhilk honoris and reverencis your Maiestie, thair supreme lord and King, vithe dewtifull honour and singular obeysance, as it var raist out of the place, comes furthe as becomes, maist humblie presenting thair service to your hienes, rejoicing for that happie delyverance, and praying to the mightie God, that all thingis may befall happelie and prosperoullie vnto your Maiestie. It is not vnknawin to yow, maist gracious Sovereigne, quhat affectioun, luif and honour, the citizenis of Glesgw hes born and done vnto your Maiesteis maist nobill progenitouris, not spairing to fched thair bluid and hafert all they had; vithe quhat dewties and all kynd of guid affectioun thai haue honourit your Maiestie; and how oft your grace hes had a proif of thair maist villing obedience in your Maiesties service: It fowld not seame strang, gif be quhat meane thai can be abill, thai schaw plainlie, maist evident signes of thair guid vill and maist invart luif quhilk thai beir towardis your Maiestie. Quhairfoir, nocht staying your grace vith longe speiche, ve mak ane end; praying the eternall and everlasting God to preserve your hienes, multiplie his grace, sheane above vpon yow; gif vnto your

Maieftie ane long lyf, vithe ane happie and prosperous reigne ; and laft, that croun of eternall felicitie, throw the rychteous meritis of the Lord Jefus. AMEN.

No. XIV.

THE TRIAL OF GEORGE SPROT, Notary in Eyemouth, his DYING CONFESSION upon the fcaffold, together with various ILLUSTRATIVE DOCUMENTS.

[ALTHOUGH the proceedings against SPROT took place, fo late as the month of Auguft 1608, (being *eight years* after the Conſpiracy of John Earl of Gowrie and his brother,) and though the conſequent Forfeiture of ROBERT LOGAN of RESTALRIG, in the year 1609, ought each to be inserted, according to the ſtrict chronological order laid down at the commencement of this work ; the Editor conſiders it neceſſary, in theſe inſtances, to depart from this rule ; ſo as to give a connected and comprehensive view of the entire evidence which our Public Records afford, of this moſt extraordinary tranſaction. The value and intereſt of theſe Papers, it is truſted, will be conſiderably enhanced by this arrangement ; and to avoid confuſion or miſtakes, as to dates, &c. they ſhall be carefully noted on the margins. The ſources from which the Editor has procured theſe materials, are in every inſtance mentioned ; but wherever this circumſtance is not taken notice of, they muſt be conſidered as taken from the Records of the Court of Juſtiary.]

(1.) *Mr Williame Hairt, Juſtice-Depute.*

Aug. 1608.

High Treason — Concealment of Gowrie's Conspiracy, &c.

(Aug. 12, 1608.)—GEORGE SPROTE, Notter (notary) in Haymouth (Eyemouth.)

Dilaitit, accuſet and perſewit be Sir Thomas Hammiltoun of Bynn timer, of certane treſſonable crymes, contenit in his DITTAY following.

GEORGE SPROTE notter in Eymouth, Ye ar indytit and accuſet, florſamekill as vinq^{le} Johnne ſumtyme Erle of Gowrie, haifing maiſt crewallie, detaiftabillie and treſſonabillie conſpyrit, in the moneth of July or thairby, the yeir of God I^m.Vj^c. yeiris, to Murther our deir and moſt gracious ſouerane, the Kingis moſt ſacred Maieſtie ; and haifing impairtit that devillifch purpois to vinq^{le} Robert Logane of Reſtalrig, quha allowit of the ſamyn, and maiſt willinglie and reddelie vnder-tuik to be pairtaker thair of ; the ſamyn cuming to your knowlege, at the tymes and in maner perticulerlie eftir ſpecifeit, ye maiſt vnnaturallie, maliciouſlie and treſſonablie conceillit the ſamyn ; and was airt and pairt thair of, in maner following. IN the firſt, in the ſaid moneth of Julij, the yeir of God I^m.Vj^c. yeiris, eftir that ye had perſauet and knawin that dyuerſe Letteris and meſſages had paſt betuix the ſaid ſumtyme Erle and the ſaid Laird of Reſtalrig, ye being in the place of Falſt-Caſtell, ye ſaw and red the begynning of ane Letter writtin with the ſaid vinq^{le} Robert Logane of Reſtalrig his awin hand to the ſaid vinq^{le} Johnne ſumtyme Erle of Gowrie, of the tennour following :

Aug. 1608.

‘ MY LORD,¹

‘ MY maist humbill deutie and fervice hertlie rememberit : Att the reffait of 3our lordschipis letteris, I am so confortit, that I can naper vtter my joy, nor find my self sufficientlie abill to requyte 3our lordschip with dew thankis, and persuaid 3our lordschip, in that matter, I fall be als fordwaird for 3our lordschipis honour, as gif it war my awin caus ; and I think pair is na leving Christiane that wald nocht be content to revenge that Macheveliane massacrene of our deir freindis, 3e,² howbeit, it fould be to ventour and haizaird lyfe, landis, and all vther thingis ellis my heart can bind me to tak pairt in that mater, as 3ow fall find bettir pruiß pairof : Bot ane thing wald be done, that 3our lordschip fould be circumspect and be earnest with 3our broper, that he be nocht rasche in ony speiches tuiching þe purpois of Padua.’³

And ane certane space eftir the executioun of the foirsaid Treffone, the said vni^{le} Robert Logane of Restalrig, haifing desyrit Laird Bowre to delyuer to him the foirsaid Lettre, or ellis burne it ; and Boure haifing gevin to yow all tickettis and letteris quhilk he than had, atther concerning Restalrig or vtheris, to sight⁴ the samyn, becaus he could nocht reid him self ; ye abstractit the aboue writtin lettre, and retenit the samyn in your awin handis, and dyuerse tymes red it ; contening forder in substance nor⁵ is formerlie sett down, according (to) thir⁶ woirdis following.

‘ MY LORD,

‘ 3E may easilie vnderstand, that sic ane purpois as 3our lordschip intendis, can nocht be done raschlie, bot with deliberatioun ; and I think, for my self, it war maist meit to haif þe men 3our lordschip spak of, reddie in ane boit or bark, and addrefs pame as thay war takand passyme vpone þe fie, in sic fair somer time ? And gif 3our lordschip could think guid, aper to cum 3our self to my house of Falsé-Castell, be fie, or send 3our lordschipis broper, I fould haif þe place verrie quyet and weill provydit, eftir 3our lordschipis adverteisment ; and persuaid 3our lordschip, 3e fould be als sure and quyet heir, quhill we had settillit our plat,⁸ as gif 3e war in 3our awin chamber ; ffor I trow, and I am assurit, we fall heir woird within few dayis, fra thame 3our lordschip knawis of ; for I haif cair to fie qnhat schipis cumis by. 3our lordschip knawis I haif keipit my Lord Bothuell quyetlie in this hous, in his grittest extremities, say the King and his Counsall qnhat thay lykit : And I hoip, gif all thingis cum to pas, as I trust thay fall, to haif baith 3our lordschip and his lordschip at ane guid dyner afor I die : *et hoc jocosè*, to animat 3our lordschip : And dout nocht, my lord, bot all thingis fall be weill, and I am resoluēt, qnhairof 3our lordschip fall nocht doubt of ony thing of my pairt, 3e,⁹ to perrell lyfe, land, honour and guidis ; 3e, the haizard of hell fall nocht effray me fra þat ; 3ea, thocht þe skafold war alreddie set vp ! The soner þe matter war done it war þe better ; for þe Kingis buk-hunting will be schortlie, and I hoip it fall prepair sum dantie cheir for ws to dyne aganis þe nixt 3eir. I remember weill, my lord, and I will nevir forget sa lang as I leve, that mirrie spoirt 3our lordschipis broper iauld me of ane noble man at Padua, for I think that ane parasteue¹⁰ to this purpois. My lord, think na thing that I commit the secrecie heiroy and credeit to this beirar ; for I dar nocht only ventour my life, land and all vther thing I haif in his credeit, bot I durst haizard my faull in his keiping, gif it war possible, in earthlie men ; ffor I am sa persuaidit of his treuth and fidelitie, and I trow, as 3our lord-

¹ It will readily be observed, that a mere *abstract* of part only of these treasonable Letters had been considered, by the public prosecutor, as necessary to be engrossed in the ‘ Dittay’ of Spret. Proper transcripts of these epistles will be found in the following Article, under No. XV. Restalrig’s Forfeiture, Jun. 24. 1609, where they were produced in evidence, and recorded in the Books of Parliament.

² Yea. ³ See another allusion to this ‘ purpois’ in the next-quoted letter. ⁴ View, inspect. ⁵ Than. ⁶ These. ⁷ Summer time. ⁸ Plot, conspiracy. ⁹ Yea. ¹⁰ From *παζαράτης* ? *qui a latere stat* ; a parallel instance, a ‘ preparative.’

Aug. 1608. schip may ask him, gif it be trew he wald ryde to Hellis 3ettis¹ for me? And he is nocht hegylit of my pairt to him. And pairfoir, I dout nocht bot pis will persuaid 3our lordschip to geve him trust, in this matter, as to my self. Bot I pray 3owre lordschip direct him hame with all possible haift; and geve him strait command, that he tak nocht ane wink sleip quhill he sie me agane, eftir he cum frome 3our lordschip. And, my lord, as 3our lordschip desyres in 3our Letter to me, aper ryve and burne,² or ellis fend bak agane with pe beirar; for sa is the fassioune, I grant.'

Quhilk Letter, writtin everie woird with the said vmq^{le} Robert Logane his awin hand, was subseryuit be him efter his accustomed maner, with this woird 'Restalrig.'³ AND albeit, be the contentis of the foirsaid Letter, ye knew perfytlie, the treuth of the said maist tressonable Conspiracie, and the said vmq^{le} Robert Logane of Restalrig his foirknawlege, allowance, and giltienes thairof; lyk as, ye was assurit thairof, by his ressauncing of dyuerse Litteris fend to Gowrie for the said purpois, and be findrie conferences betuix the said vmq^{le} Robert Logane of Restalrig and vmq^{le} James Bour alias callit *Laird Bour*, in your presence and heiring, concerning the said Tressoun, alsweill in the said moneth of July, immediatlie preceiding the said Tressone, as at dyuerse vtheris tymes, schoirtlie thaireftir; as lykwayis, be the reveilling thairof to yow be the said vmq^{le} James Bour alias callit *Laird Bour*, quha was vpone the knawlege and devyse of the said Tressone, and was imployit as ordiner messinger be the said vmq^{le} Robert Logane of Restalrig to the said vmq^{le} Erle of Gowrie, in the trafique of the said damnable Tressone; quhairby, your knawlege, conceilling and giltines of the said tressoun was vndenyable: 3IT, for forder manifestatioun thairof, about 3ule,⁴ in the yeir of God Im.Vj^c. and tua yeiris, the said vmq^{le} Robert Logane of Restalrig him self schew to yow, that Bour had tauld him, that he had bene sumquhat rasche to let yow sie ane Letter quhilk come fra the Erle of Gowrie to the said Laird of Restalrig, quha than vrget yow to tell, quhat ye vnderstuid be that Letter! To quhome ye ansuerit, that ye 'tuik the meaneing of it to be, that he had bene on the purpois and counfall of Gowreis Conspiracie.' And he ansuering to yow, that 'quhat evir he had done, ye war his awin; bot gif ye wald sueir to him, that ye sould nevir reveill any thing to ony persone, he sould be the best sicht that evir ye saw.' And in taikin of forder recompance, he than gaif to yow tuelf pundis of siluer. NEUERTHELES, albeit ye perfytlie knew the haill practeis and progres of the said Tressone, frome the begynning thairof, as said is, alsweill be your sicht of the saidis Letteris, as also be your conferences with the saidis vmq^{le} James Bour and vmq^{le} Robert Logane of Restalrig; yit, during all the dayis of the lyftymes of the saidis vmq^{le} Robert Logane of Restalrig, and of the said vmq^{le} James Bour, quha bayth levit quhill⁵ the yeir of

¹ The gates of Hell.

² Tear and burn.

³ It was at this time usual for the lesser Barons to take the name of their lands as their common title; and they subscribed their Letters, &c. in the same manner, as is now customary with the Nobility.

⁴ Christmas.

⁵ Till.

God I^m.Vj^c. and fax yeiris, or thairby, be the space of fax yeiris efter that ye Aug. 1608.
 knew thair giltines of the treffonabill Conspiracie foirfaid, ye maist treffonabillie
 conceillit the samyn: And sua, ye was and is airt and pairt of the said maist
 haynous, detestabill and treffonable Conspiracie: And thairfoir, ye aucht and
 fould incur, vnderly and suffer the sentence and pane of Heich Treafone. To
 the taikin¹ that ye haif nocht only be your Depositiones, solempnelie maid and
 subferyuit with your hand, in presens of many of the Lordis of his Maiesteis
 Counfall, and of the Ministeris of this toun, of the dait the fyft, fyvetene and
 xvj of July lastbypast, and tent day of August, confessit everie heid, poynt and
 article of the Dittay; bot also, by dyuerse vtheris your Depositiones subferyuit
 with your hand, ye haif Ratifeit the samyn, and swoir constantlie to abyde thair-
 at, and to feill the same with your bluid: Quhilk ye can nocht deny.

ASSISA.

Willame Trumbill of Airdrie, Harbert Maxwell of Cavenfe, James Tennent of Lynhous.²

Quhilkis perfonas of Assyse being chosin, fworne and admittit, eftir accusa-
 tioune of the said George Sprote befor thame of the saidis treffonabill, haynous
 and detestabill crymes, contenit in the Dittay foirfaid, and reiding of the said
 Dittay of new agane, in his and thair presens, the said George Sprote, of new,
 agane confessit, in the said Assyse presence and audience, the foirfaid Dittay, and
 everie poynt thairof to be trew and of veritie. Quhairvpone my lord Aduocat,
 as ofbefoir, askit actis and instrumentis; and in respect thairof Protestit, in cais
 the said Assyse clange him of the said cryme, for Wilfull and manifest Errour.

VERDICT. The said Assyse haveing with grit deliberatioun gravelie confid-
 drit the tennour and haill circumstances of the said Dittay, and constant Judi-
 ciall Confessioun thairof be the pannell, alsweill in presens of the Justice and
 Assessoris,³ as thaireftir, in presens of the saidis Assysouris thame felfis;⁴ thay
 all voittit, vpone the haill tennour of the said Dittay; and being ryplie and weill
 advyset thairwith, thay all in ane voce, be the mouth of the said Harbert Max-
 wall chancellor, ffind, pronuncet and declairit the said George Sprote, according
 to his awin Confessioun, Judicialle maid in thair presence and audience, to be
 ffylet, Culpable and Convict of airt and pairt of the said maist haynous, detest-
 abill and treffonabill Conspiracie contenit in his Dittay aboue writtin, and of the
 knowlege and conceilling thairof.

SENTENCE. For the quhilk caus, the said Justice-Depute, be the mouth of
 George Cheislie, dempster of Court, be his sentence and dome, decernit and or-

¹ In proof, token, or testimony. ² The rest are 'mercheand burgeffis' of Edinburgh, being per-
 sons in the same rank of life with the pannell. ³ The Assessors are not inserted in the Record.

⁴ That is, while the Jury had retired to consider their Verdict, Sprot had once more solemnly affirmed
 the truth of his previous Confessions and Depositions.

Aug. 1608. danit the said George Sprote to be tane to the mercait croce of the bur^t of Edinburgh, and thair to be hangit vpone ane gibbet, quhill he be deid ; and thaireftir, his heid to be strukin frome his body ; and his body to be quarterit and demanit as ane tratour ; and his heid to be put vp vpone ane prik of irne abone the Tolbuth of Edinburgh, quhair the rest of the Conspiratouris heidis standis : And his haill landis, heritages, takis, steidingis, rowmes, possessiones, guidis and geir, to be forfaitit and escheit to our souerane lordis vse, as culpable and convict of airt and pairt of the treasonable and detaistable crymes aboue specifeit, and conceilling thairrof. Quhillk was pronuncet for dome.

(2) SPROTTIS DEPOSITION vpon the skalfolde.¹

AT EDINBURGH, the xij day of August 1608, GEORGE SPROTT, notar in Eymouth, being brocht to the scaffold and place of executioun, he, in publict audience of the haill people, at the foure nykeis² of the scaffold, ratified his former Depositions, anent his knowledge and concealing of Restalrigis guyltines of Gouryis Treasoun ; ffor the w^{che} he humblie craved God and his Maiestie (humblie) forgifnes ; being most forie and grievit that he had offended God and the Kingis Maiestie, in concealing suche a vyld, detestable and vnnatural Treasoun, interprist be the Erll of Gowry and Laird of Restalrig aganis his natural King, so goode and so godly a Prince, who hes evir bene sa gracious to his subiectis and to this haill Yland ; protesting, that yf he had a thousand lyveis to rander, and wer able to suffer ten thousand deathis, it is not sufficient satisfacioun and recompence for his sa foull and horrible offens ; and that God had preservit him frome mony great perellis, when his lyffe wes in extreame danger, to bring him to this publict declaratioun of that detestable and horrible fact, in testifeing of the treuth, as he said publictly, in presence of all the people, in thir wordis following. To my owne schame, the schame of the Devill, and (the) glorie of God, for satisfacioun³ of the conscienceis of all these, yf ony be, that hes or can mak ony doubt of the treuth of this so cleir a mater. And he acknowledgeis, that his hanting with Restalrig, who wes a man without Religioun, and subiect to mony other vyceis, and his ingyreing⁴ of himself in thir materis, efter the first sight of Restalrigis Lettres writtin to Goury : And his continuall beiring of company with Restalrig and Laird Bour, who wes irreligious and without feir of God, brocht him frome one syn to another ; and consequentlie, vpoun this grevous (fine,) ffor the whiche most inslie, worthelie and willinglie, he is now to rander

¹ From the Original, preserved in the General Register House. On the back of the paper is marked 'Bookit,' which shows that this was the copy from which the authentic Register kept of this extraordinary investigation was filled up. The copy preserved in the Records of Parliament, which was taken from this paper, is less accurate than the present Official 'Extract ;' on which account the Editor has preferred retaining the orthography of James Prymrois, who was Clerk to the Privy Council. The principal variations are marked by parentheses. ² Nooks, corners. ³ 'Satisfeing,' in Parliamentary Record. ⁴ B. Lat. *Ingyro*, to encircle or entangle, as with the folds of a serpent.

his lyffe : And he desiryt all the people (present) to be war of evill company, and Aug. 1608. namely, of the company of these who ar voyd of Religioun : And he desyrit that this his Declaratioun mycht be insert in his proces : As alſua, he desiryt the Ministeris of Godis worde to publishe this his Declaratioun to thair flokis frome thair pulpettis ; and tooke enery one of thame who wer present be the hand, with thair promeis to do the same, saying vnto thame, that ‘ this wes the most glorious day that evir his eyis did ſie ;’ and, with these wordis, he proſtratis him ſelf and fallis vpone his kneis, in preſence of the haill people, and maid a verie pithie prayer, beginning in this forme, as followis. ‘ O fader ! how ſould I call thé fader that am ſo vnworthie to be callit thy ſone ! I haiff wanderit aſtray lyke a loſt ſcheepe, and thou of thy mercy hes brocht me home (vn)to thé, and hes preſervit my lyfe frome mony dangeris vntill this day, that I mycht reveill these hid^l and ſecreit miſteries, to my awne ſhame and thy glorie ; and thou hes promiſſit, that whenſoeur a ſinner, frome his hairt, will repent and call to thé with vnſenzeit repentance, that thou will heir him and giſſ him mercy !’ And ſo he continewit a goode ſpace, in a moſt fervent prayer, to the great admiratioun and reioſſing of all the people, and in a better forme and maner nor² ony of the beholderis and heiraris can be able to ſett down in wryte ; the ſame not being writtin in the preſent tyme, becauſe thair wes no place of writting vpoun the ſcaffold, in reſpect of the preaſe and multitude of people. And, going vp the ladder, he desiryt libertie to ſing the ſext Pfalme, and requēſtit the people to accompany him in ſinging thairof : Whiche being grantit, and he being at the ladder-head, the ſame wes tane vp and ſounge be him ſelf, with a very loud and myghtie voce ; and wes aſſiſted with above the number of fyve hundreth perſonis, who, with tearis, accompanied him in ſinging (of) that Pfalme : After the ending wherof, he repeittit and rateſeit his ſaid former Depoſitioun : And with that, recommending his ſoule to God, he wes caſſin over, and ſo endit his mortall lyffe. In witnes quhairof, we, vnder-ſubſcryvaris, who, for the moſt parte, wer all of ws vpoun the ſcaffold with him, and remanit with him vntill þe tyme of his death, and otheris of ws in ſo convenient placeis neir to the ſcaffold, that we did heir all that wes ſpokin be him, haif ſubſcryvit thir preſentis with our handis.

(Sic ſubſcribitur.) GLASGU.³ B. Galloway.⁴ A. Brechin.⁵ Balfour of Burley. Haliroodhouſe.⁶ Jo. Preſtoun, Cl^s Reg^j. Pa. Schairp. M. P. Galloway.⁷ Jo. Hall. Walter Balcanquell. M. P. Hewat. M. H. Blyith. Charlis Lumnifden. Richard Dobie, baillie of Edinburghe. William Speir, baillie. James Annislie, baillie of Edinburghe.

TENET *cum principali*, J. PRYMROIS.

¹ ‘ Hye,’ in Parliamentary Record.

² Than.

³ Archbiſhop Spottiswood.

⁴ Gavin

Hamilton, Biſhop of Galloway and Abbot of Dundrennan.

⁵ Andrew Lamb, Biſhop of Brechin.

⁶ John (Bothwell) Lord Holyroodhouſe.

⁷ ‘ Maifter Patrik Gallouay, Miniſter to the King.’

Aug. 1608. (3.) THE ARCHBISHOP OF CANTERBURY'S ACCOUNT *of the Examinations, Trial and Execution of* GEORGE SPROTT, &c.

[THE following scarce Tract was published by DR GEORGE ABBOT, then Dean of Winchester, who was an eye-witness of the facts he has narrated. This very eminent person was the second of the eight Divines of Oxford who were appointed to translate a large portion of our present version of the New Testament, in the year 1604. He accompanied the Earl of Dunbar to Scotland, in the year this Tract was published, (1608,) to assist in effecting the establishment of an Union between the Churches of England and Scotland; and conducted himself with so much moderation, as thereby to lay the foundation of his future preferments. Previous to that period, Dr Abbot had been three times Vice-Chancellor of Oxford; and in December 1609, was elected Bishop of Litchfield and Coventry. A few weeks afterwards, he was translated to the See of London; and was, on November 2d, 1609, elevated to the exalted station of Archbishop of Canterbury, the Primate of all England.

Sir William Hart's Report of the Trial and Examinations, &c. is printed here, only in so far as it contains additional matter. His attested copy of the proceedings had been taken by Dr Abbot to England, when he returned; and being personally so much impressed with the extraordinary circumstances which he had witnessed, he readily complied with the desire of his friends to publish it, accompanied by an original preliminary Dissertation of his own, explanatory of the remarkable facts narrated in the Report.]

THE EXAMINATIONS, ARRAIGNMENT and CONVICTION of GEORGE SPROT, Notary in Aye-mouth: Together with his constant and extraordinarie behaviour, at his death, in Edenborough, Aug. 12, 1608: Written and set forth by Sir William Hairs Knight, L. Justice of Scotland. Whereby appeareth the Treasonable device betwixt John late Earle of Gowry and Robert Logan of Restalrig, (commonly called Lesterig,) plotted by them, for the cruell MURDERING of our most gracious SOVEREIGNE. Before which Treatise is prefixed also, A PREFACE, written by G. ABBOT, Doctour of Divinitie and Deane of Winchester, who was present at the sayd Sprot's Execution.

LONDON: Printed by Melch. Bradewood for William Aspley. 1608.

A PREFACE TO THE READER.

AMONG those troubles and crosses, wherewithall our heauenlie Father is pleased to exercise his best children, while they remaine in this tabernacle of their flesh, there is no one more frequent, than such euil and slanderous reports, as the virulent tongues of malicious persons, out of a hatred to their vertues, are desirous to lay vpon them. For there was neuer age nor countrey, wherein either man or woman was adorned with rare and eminent qualities, for the seruice of God, and aduancement of true

religion, but immediatly such as were ill-affected began to imploy their wits, and beat their braines, Aug. 1608. how by calumniation and forged imputations, they might obfcure the luftre of thofe fingular parts, which their quicke but enuious eye had difcouered in them. That worthy Moyfes, the meekeft¹ man vpon earth, is reproched as ambitious, and charged by Core, to² take too much vpon him. That admirable Daniel was³ accufed to the King as a contemner of his greatneffe, and violater of his lawes. It was objected to zealous and iuft Nehemiah by⁴ Sanballat, that himfelfe and the people of Iuda intended a rebellion. Paul and Silas, two great inftruments of Gods glory, were complained vpon as feditious perfons, and⁵ difturbors of the peace and quietneffe of the city. The old Chriftians, men no doubt of vertuous behauiour, yet becaufe, in time of perfecution, they afsembled themfelues together in the night, for the worfhip of their God, and profefion of their faith, were reported by the Gentiles to haue the Feafts of⁶ Thyeftes, (that is, to eat the flefh of children,) and to do as Oedipus did, that is, promifcuoufly to commit fornication with their mothers, fifters and daughters. Yea, their owne⁷ feruants were brought by the terrours of the Infidels to accufe them of fuch crimes. Tertulian complaineth of this, declaring that it was objected to the Chriftians,⁸ that they killed a babe new borne, and in the blood thereof did dip their Eucharift, and fo eat it; as alfo, that fuffering their dogs of purpofe to ouerturne their lights, they in the darke committed inceft with their mothers and daughters. Hence it grew as a kind of prouerbe, That it was the part of the Chriftians to doe good, and yet to be ill fpoken of. So⁹ Euagrius reporteth, touching that holy and bleffed Emperour Conftantine the Great, that the Ethnicks laded him with many falfe criminations, becaufe he tooke away their Heathenifh fuperftitions, and in place thereof aduanced the feruice of Chrift Iefus.

In all which accufations, and other of like nature, (if we looke aduifedly into them,) we fhall perceiue, that both Sathan hath his worke, and euill men haue a part, yea that God himfelfe hath a finger. Sathan hath his worke, becaufe, (as Cyprian, writing of Cornelius, faith,) It is¹⁰ euermore the worke of the Diuell, that he may with lies teare the feruants of God, and, by falfe opinions fspread concerning them, may defame their glorious name; that fuch as are bright in the light of their owne confcience may be fordidated, or dimmed, by the reports of other. Euill men haue their part, either becaufe, with Zoilus, when they¹¹ can do no hurt to the good and vertuous, at leaft they will fpeake ill of them; or els, becaufe, (as Hierome writeth,)¹² It is the folace of euill men to carpe at the good, thinking that by the great number of offenders, the guilt of their faults is diminifhed and abated. Nay, God hath a finger in it, to trie and fharpen men, and by that meanes to fit them to himfelfe. For flanders haue that force in them, as Gregory well noteth, fpeaking thus: ¹³ Going thorow almoft all examples, we finde, that there hath not beene one good man whom the naughtineffe of euill men hath not tried: for, that I may fo fpeake, the fword of oure foule is not brought to the exactneffe of fharpneffe, if the file of other mens naughtineffe hath not rubbed and fretted it. Againe, in as much as we fhould grow into deepe and dangerous fecuritie, if it were not for fuch remembrances, our heauenly Father is contented that by fuch calumniationes we fhould be rowzed from the fleepineffe and drowzineffe of the world. ¹⁴ Pliny writeth, that the Lion is fubieft to no fickneffe, but only a faftidium, or fulneffe of ftomacke: wherewithall when hee is oppreffed, the way to cure him is to offer him fome contumely; which is by tying an Ape neere him: for the Lion is fo moued and vexed for the time, with the tricks which the Ape plaith, that he riddeth and putteth ouer that, which fo much before offend- ed him. Euen fo God vfeth the contumelies of bafe perfons, and the reproches of the vileft, to rowze vp men of excellent fpirits, that they furfet not in voluptuoufneffe, and fo confequently be lulled afleepe in idle fecuritie, to their owne harme and peraduenture ruine.

But be it for one or all thefe reafons, certaine it is, that in our age, as well as in times by-paft, the

¹ Num. xii. 3.
Hist. lib. iv. 7.

² Num. xvi. 3.
⁷ Lib. v. 1.

³ Dan. vi. 13.

⁴ Neh. vi. 6.

⁵ Act. xvi. 20.

⁶ Euseb. Eccl.

¹⁰ Cyprian, Epist. ad Antonian. lib. iv. 2.

⁸ Tertull. Apolog. cap. ii.

¹¹ Aelian, Hist. lib. xi. 10.

⁹ Euagrius, Eccl. Hist. lib. iii. 40.

¹² Hieron. Epist. x. ad Furiam.

¹³ Gregor. Hom. 38. in 40. Hom.

¹⁴ Plin. Nat. Hist. lib. viii. 16.

Aug. 1608. deereft children of God haue tafted of this triall, and haue been forced to endure very horrible imputations and ftaining afperfions, which the venomous tongues of vngodly men haue ftirred to caft vpon them. It were no very hard matter to name ftange calumniationes, which haue been inuented by the vaffals of Antiehrift, and publifhed by the adores of the beaft in diuers books, (which are no better than defamatory libels,) againft Gods feruants of the higheft ranke vpon earth, becaufe they ouerturned the ftongholds of idolatry, and gane free paffage to the Gofpell of Chrift Iefus. But I forbear to giue fuch particuler inftances, and rather leane to the confideration of the wife, whether it may euer be hoped, that fuch irreligious creatures (who haue folde themfelues to Sathan the accufer of the brethren) will make fpare to lath and fcouge fuch fingle perfons as ftand in their way, and hinder their defignes; when they make no confcience to brand our holy faith, and the generalitie of our profeflion, with reports moft odious, and fuch as muft needs be acknowledged for abominable, if they fhould be true: but in footh are, in the fight of God, of angels and men, before heaven and earth, but plaine fictions and forgeries, conteining in them no parcell of veritie. Of which fort are thofe defamations, which a countryman of ours, without all fhame, auoucheth in a ¹ Pamphlet not long fince put out, and publifhed to the world; That the Proteftants are bound in confcience, neuer to afke God forgivenefle of their finnes: That the Proteftants are bound in confcience to auoid all good works: That the Proteftants make God the author of finne; the only caufe of finne: That man finneth not: That God is worfe than the Deuill. And that of ² Roffeus, writing againft the French King now reigning: *Hominum animas cum corporibus interire, et homines a brutis pecoribus nihil differre. Euangelicorum infinita millia credunt.* Infinite thoufands of Proteftants do beleue that the fouls of men die together with their bodies, and that men do nothing differ from brute beafts.

Such truthlefle, fhamelefle, and gracelefle afertions, they haue not fticked to proclame openly in the face of the funne. The knowledge whereof fhould caufe all men indifferently affected, not to be credulous or light of beleefe, when they finde gall and bitterneffe caft out of the mouth or penne of an enemy of the Gofpell againft any contending for the truth, though it be but a private man; but efpecially to fufpend their iudgements, when perfons of higheft quality, for maintaining Gods caufe, are traduced by an enemy, or defamed by fome vile one, whofe tongue and pen indeed is no flander, as we commonly fpeake. For thefe great ones are the fpecial marke whereat malice doth aime; and as poifon ordinarily hafteneth to the heart, fo doth enuie let drine at the head, at thofe who be moft eminent in the State and Commonwealt. When Cato the elder lived, there was not in all Rome fo woorthy a man as he: for (as ³ Pliny noteth) he was the beft orator, the beft leader or generall in the field, the beft fenatour or counfeller that was in that citie: yet was he fo intreated as neuer man was, being publickly called to his anfwer foure and fortie feuerall times, whereby one while his fame was hazard-ed, another while his life: and yet alwayes he was honorably, or, as the younger Pliny hath it, ⁴ gloriously abfolued and acquitted. Doubtleffe there was againft him a great deale of fpleene, a very great deale of malice. From the touch whereof, euen Kings and Princes are fo farre from being free, that they are more fubieet to it than any other perfons: which made ⁵ Antifthenes to fay, That it was a kingly thing, when thou haft done wel, to be ill fpoken of for thy labor. And if we be defirous to fee a famous example of this, there is no one more notable than that of holy Dauid, who being firft a Prophet, and afterwards a King, (but in both moft vnfpotted touching the crimes layd againft him,) yea being a man after Gods own heart, yet was accused and charged with many hainous iniquities; which caufed him to complaine both before and after his coming to the crowne: as vnto Saul: ⁶ Wherefore gineft thou an eare vnto mens words, that fay, Beholde, Dauid feeketh euill againft thee? And to God himfelfe: ⁷ O Lord my God, if I haue done this thing, meaning, which they layd vnto

¹ Certaine Articles or forcible reasons printed at Antwerpe 1600.

² Ross. contra Henric. Gallum. cap. iv. v.

³ Plin. Nat. Hist. lib. vii. 27.

⁴ Plin. de viris illustrib.

⁵ Diog. Laert. in Antisth.

⁶ 1 Sam. xxiv. 10.

⁷ Psal. vii. 3.

him: if there be any wickednesse in my hands, intending, such as they would fasten vpon him, then let Aug. 1608. the enemie persecute my soule and take it. And in another place, speaking to the slanderer aduersarie, ¹ Thy tongue imagineth mischief, and is like a sharpe razor that cutteth deceitfully. And yet further: ² The proud haue imagined a lie against me. So in the next Psalm: ³ Deliuer my soule, O Lord, from lying lips, and from a deceitfull tongue. These things, and that the ⁴ drunkards did make songs vpon him, did many times exceedingly grieue him, that he who laboured to seeme innocent, should be reproched as nocent: that he who was but the patient, should be held for the agent; that the man wronged, should be reported to do wrong vnto other; that he whose life was sought, should be termed by Shimei, ⁵ a man of blood, and a murtherer. This troubled and griened him aboue measure. For it is the property of innocency and integritie, that if it may finde no other reward, yet it would gladly shine in the simplicitie and sinceritie of it selfe. But when there was no other helpe to be freed from those slanders, Dauid had one assured remedie; that was, to retire himselfe to the Lord, and commend his cause to his Maker: As he excellently doth in the three and fortieth Psalm; where, being oppressed by the malice of his aduersaries, and complaining of it in the first verse: ⁶ Iudge me, O God, and defend my cause against the vnmercifull people: deliuer me from the deceitful and wicked man; he helpeth himselfe in the last verse, rebuking the impatiency which he found in his owne soule, and directing his affections vnto another course, ⁷ Why art thou cast downe, my soule? and why art thou disquieted within me? Wait on God: for I will yet giue him thanks: he is my present helpe and my God.

Many men haue been desirous to haue their fame cleered from the reproches of their enemies, and haue sought meanes to haue their hearts eased from the disturbances and distempers whereinto false accusations haue put them. Zeno is much commended, that with such calmnesse he could turne aside those bitter taunts which some bestowed on him; for being asked, how he did bear himselfe against euil speeches: ⁸ I do, saith he, as if an Embassadour should be sent vnto me, and I should returne him without an answer. This for a philosopher, who was but an heathen man, was an excellent resolution. But in these words of Dauid, there is a way more noble than Zeno could conceiue; that is, to looke vp to our great God, and commit all to him, expecting his good leasure. It is not enough when a man, being priuy to his owne innocencie, doth not boile within himselfe, or fret against the wicked (which are things ⁹ forbidden vnto vs), but he must goe a step farther, and propose to his owne heart some more notable example. And in this case, who is rather to be imitated by a Christian than our Sauour Christ? Concerning whom S. Chrysostome said well: That ¹⁰ when he cast out diuels, and did innumerable good things, and yet was ill spoken of; against those men who said, that he had the Diuell, he did not fend any thunderbolt, he did not ouerthrow those blasphemous mouthes, he consumed not with fire those vnchaste, vngratefull, vnworthie tongues of theirs: but only with these words put aside those euill speeches; I haue not the Diuell, but I honour him who sent me. This is most truly related of our Sauour; but there was in him somewhat els, which is better obserued by S. Peter: ¹¹ When he was reuiled, he reuiled not againe; when he suffered, he threatened not, but committed it to him that iudgeth righteously. And this, committing it to him that iudgeth righteously, was the course which Dauid vsed: to wait patiently on the Lord, to cast vp his eies to heauen, and commending to God the integrity of his waies, to leaue all to his disposing. And this is the very lesson which hee teacheth both himselfe and other. For in the seuen and twentieth Psalm, hauing spoken of his ¹² aduersaries, of false witnesses which rose vp against him, and such as speak cruelly, he concludeth with this document, Hope in the Lord; bee strong, and hee shall comfort thine heart, and trust in the Lord. Which is the most sound instruction, that any creature can haue: to looke vp to his Creator (to whom all hearts are open, and no priuie

¹ Psal. lii. 2. ² Psal. cxix. 69. ³ Psal. cxx. 2. ⁴ Psal. lxxix. 12. ⁵ 2 Sam. xvi. 7. ⁶ Psal. xliii. 1. ⁷ Verse 5.
⁸ Diog. Laert. in Zenon. ⁹ Psal. xxxvii. 1. ¹⁰ Chrys. Homil. 1. de incompreh. Dei natura. ¹¹ 1 Pet. ii. 23.
¹² Psal. xxvii. 12, 14.

Aug. 1608. thing can be secret) and to commend to his providence, to his fatherly care and wisedome, the vnspottednesse of his waies, and the simplicity of his conuersation. And assuredly that God who is the God of truth, will bee the patron and protectour of innocencie in his seruants. It is a strong consolation which Dauid giueth in this case: ¹ Commit thy way vnto the Lord, and trust in him, and he shall bring it to passe. And hee shall bring forth thy righteousnesse as the light, and thy iudgement as the noone day. But it followeth: Wait patiently vpon the Lord, and hope in him: As if that must bee the meanes to attaine thy desire; not to run before thy Maker, and appoint him the time when thy integrity shall bee cleared, and the dimming clouds of obloquy shall be blown from thy estimation; but to leaue that to his managing, to his dispose and direction. For as S. Chrysostome telleth us; ² If it be in the power of God to giue vnto vs, it is also in his power to giue when himselfe pleaseth. It is said of him, that hee doth all things ³ in measure, number and waight. But if before the number bee full, or the measure be vp, thou wilt limit him the time when thy innocencie must appeare: thou takest on thee to be wiser than the Lord, and in a sort mounting vp into his throne in heauen, thou doest iustle him out of his seat of maiesty and eternity. If thou wilt set downe the decree for time or place, or the manner of purging thy selfe, or how the wickednes of thine enemies must be displaid, thou makest thy selfe the Iudge, and the Lord of heauen and earth shall be but thy executioner. Leane the maine then to him (which doth not fore-closeth thee, but that thou mayst vse all honest meanes to lay open thy vnspottednesse) and thou shalt haue reason with Dauid to thanke him, and say: ⁴ He is my present helpe and my God.

And in truth it is strange to see the Lords worke in this behalfe, how, when the fame of his seruants hath bene vnjustly denigrated by false accusations, hee taking the matter into his hands hath, in his good time, dispelled all mists of slander. Heereof Dauid himselfe had singular experience. For when Saul was informed that Dauid fought his life, and by the often ingeminations of malicious men this was taken for a truth, and Dauid was accordingly persecuted, and in danger to be murdered, God put Saul ⁵ two feuerall times into the hands of Dauid, that easily hee might haue slaine him: which being entertained as an inuincible argument of Dauids fidelity, Saul himselfe, by the irrefragable euidence of truth, was forced to cry out, ⁶ Thou art more righteous than I: for thou hast rendered me good, and I haue rendered thee euill. And a second time: ⁷ I haue sinned: come againe, my sonne Dauid, for I will doe thee no more harme, because my soul was precious in thine eyes this day: behold I haue done foolishly, and haue erred exceedingly. Eusebius hath such another example, of ⁸ Narcissus the Bishop of Ierusalem, who was a vertuous and worthy man, and yet by three persons was accused of a heinous crime. The story doth not cleerely deliuer what it was; but by circumstances it may be gathered to bee incontinency. These three, to giue the more reputation to that accusation wherewithall they charged him, did vse diuers imprecations and execrations on themselves, if those things were not true which they objected against him. As the one wished that himselfe might be burnt, the second that he might die of a loathsome disease, the third that he might lose the sight of his eyes. This constant and consenting crimination so affected Narcissus, though priny to his own vprightness, that he withdrew himselfe from his abode, and liuing priuately, commended his righteous cause to God; which had such effect, that not very long after, the first of his accusers was indeed consumed with fire, the house being burnt in which he remained: the second died of the same disease which he wished vpon himselfe: and the third being much affrighted with the punishment of his fellows, had remorse of his sinne, and came and openly acknowledged the conspiracy of them three against innocent Narcissus; but withall, he had such feeling of his owne iniquity, that powring out continuall teares, hee lost the sight of his eyes with the rheume that descended. A most memorable narration to their comfort, who, being wronged by men in their fame or good name, commend their cause to God. Like to which is that of Theodoret, ⁹

¹ Psal. xxxvii. 5, 6. ² Chrys. in Psal. cxxix. ³ Sapient. xi. 17. ⁴ Psal. xliii. 5. ⁵ 1 Sam. xxiv. 4, c. xxvi. 7. ⁶ 1 Sam. xxiv. 18. ⁷ 1 Sam. xxvi. 21. ⁸ Euseb. Eccl. Hist. lib. vi. 8. ⁹ Theodor. Eccl. Hist. lib. i. 20, 21.

who reporteth, that Eustathius the Patriarke of Antioch had many combats with the Arrians for defence of Christs truth : and when he still preuailed against them, they, out of their malice, suborned a harlot to accuse him of fornication, and openly to maintaine, that a childe was his which she held in her armes : by which meanes hee was constrained to flie to the same succour that Narcissus formerly had done ; which had such force with Almighty God, that within a while after, the harlot was stricken with a grievous sicknesse, which wrought in her so powerfully, that shee freely confessed the combination of the Arrians against the holy man : and how shee was suborned to accuse him wrongfully, whereof she was now sorry. But whereas she had said that Eustathius was the father of her childe ; that indeed was true of another Eustathius, but not of the Bishop of Antioch. Wherein we may behold, that euen so long agoe equiuocation was in vse, but it was with leand¹ persons, as heretikes and harlots : but withall Gods worke appeareth, that he will not euermore suffer innocencie to be oppressed, and truth to be wronged ; but at the last veritie shall breake forth, as the Sunne which was darkened with a cloud. And this mercifull fauor of God to his seruants was not onely in the ages past, but our dayes haue experiments of the very like occurrents ; as in a famous case lately acted at Edinborough may easily be discovered : whereof, because I was an eye-witnesse, at my late being there by the commandement of his Maiestie, I haue thought it my dutie, in honour to God and loue to his truth, to declare what I saw and heard ; that this following Treatise, penned by an honourable personage of North Britaine, might not goe forth vnaccompanied with the Declaration of one of South-Britaine, for so much as hee beheld.

THERE are few in this Iland of any vnderstanding, but haue heard of the traiterous and bloodie attempt of the EARLE GOWRIE and his brother against the person and life of our most blessed Souereigne. Wherein, albeit there were such evidences and arguments, as that any man who would haue taken notice thereof, might haue been sufficiently informed therein, enen at the very first ; and afterward by the cleere depositions (for most pregnant circumstances) and ample attestations of many persons of honour and qualitie, the Parliament of that Kingdome tooke full knowledge thereof ; and accordingly proceeded to the forfaiting of the whole Estate of that Earle, and of his heires for euer ; yet some humorous men, whom in that respect I may iustly terme unthankfull vnto God, and vndutifull to their King, out of fond imaginations, or rather, if you will, seditious suppositions of their owne, did both at home and abroad, by whisperings and secret buzzings into the eares of the people (who were better perswaded of them than indeed there was cause) employ their wits and tongues to obscure the trueth of that matter, and to cast an imputation where it was least deserued. Which when God had permitted for the space of some yeeres to ranckle and fester in the bowels of those who were the authors of it ; the same God, in his wisdom, at last meaning to cure them, if they would be cured, of that maladie, discovered, that in the same treason, although carried neuer so secretly, there were other confederates, of whom hitherto the world had taken no kinde of knowledge. And albeit two of the persons interested in that businesse were lately dead, and departed vnto far greater torment than all the earth could lay vpon them (vnlesse they died repentant), yet it was apprehended that a third partie remained, who had fore-knowledge of that conspiracie, and was able to vtter much of the secrets of it : one GEORGE SPROTT, a Notarie, inhabiting at Ayme-mouth, a place well-knownen in that countrey. Which matter, or some part thereof, being made knowen to an² honourable person, a most faithfull seruant to his Maiestie, first by some words that fell from Sprott himselfe, and afterwards by some papers found vpon him, it was so wisely caried, and so prudently brought about, by the great care and diligence of that noble man (God Almighty blessing the businesse) that so much was reueiled, as followeth in this Treatise, vpon the acts to be seene ; which are heere set downe at large, word for word, as they agree with the proceesse originall, and other examinations, that such as haue bene auerse may at last receaue satisfaction. Touching all which, I shall say nothing, but only report that which befell vpon the day of his

¹ Lewd.² The Earle of Dunbar.

Aug. 1608. death, when hee suffered for that treason. Having then the sentence passed on him, vpon Friday the twelfth of August 1608, in the fore-noone, and publickly being warned to prepare himselfe to his end, which must be that after-dinner, he most willingly submitted himselfe vnto that punishment, which (as he then acknowledged) he had iustly deserved. And being left to himselfe til dinner-time was expired, then came to him, into that priuate place where hee remained, some of the ¹ reuerend Bishops, diuers L.L. of the Session, two of the English Ministers there imployed by his Maiestie, with diuers other Ministers of the towne of Edenborough. Before whom, he first acknowledged and auouched his former confession to be true, and that he would die in the same; and then falling on his knees in a corner of that roome, where he and they then were, in a prayer to God vttered aloud, he so passionately deplored his former wickednesses, but especially that sinne of his for which he was to die; that a man may iustly say, hee did in a sort deiect and cast downe himselfe to the gates of hell, as if he should there haue bene swallowed vp in the gulfe of desperation: yet presently laying holde vpon the mercies of God in Christ, he raised himselfe, and strangely lifted vp his soule vnto the Throne of Grace, applying ioy and comfort to his owne heart so effectually, as can not well be described. In the admitting of this consolation into his inward man, he burst out into teares, so plentifully flowing from him, that for a time they stopped his voice. The sight and hearing whereof, wrought so forcible an impression in those persons of honour and learned men who beheld him, that there was scant any one of them, who could re-fraine teares in the place, as diuers of themselves that day did witnesse vnto me. The effect of his prayer, was the aggrauating of his crime, in concealing the treason against the Kings Maiestie; into which hee said, God did most iustly suffer him to fall, by reason of his former wickedness, which he had so desperately multiplied, in despight of God and his holy Word. And thereupon, going on with many sensible speeches and most feeling comparisns, hee insisted on the fearefull and dreadfull danger wherein hee was, if the Lord in iudgement should looke vpon him. Notwithstanding, at last he proceeded: ‘ Yet most mercifull father,’ whereat he made a stay, and repeating the word father with a marvellous loud and shrill voice, he added, ‘ why should I call thee father, that haue so many wayes and so horribly transgressed thy commandments, in all the course of my life, but especially in concealing this vile, fearefull and diuellish treason against my most gracious Soueraigne? Lord, Lord, there is nothing belongeth to me but wrath and confusion!’ And so went on in a strange vnaffected current of words, lively expressing the sorrow of his heart. Yet there he staid not, but spake forward to this purpose: ‘ Notwithstanding, Lord, thou hast left me this comfort in thy Word, that thou hast sayd, Come vnto me all ye that are weary and laden, and I will refresh you. Lord, I am weary, Lord I am heauily laden with my sinnes, which are innumerable: I am ready to sincke, Lord, euen to hell, without thou, in thy mercy, put to thy hand and deliuer me. Lord, thou hast promised by thine owne word, out of thine owne mouth, that thou wilt refresh the weary soul.’ And with that he thrust out one of his hands, and reaching as high as hee could, with a louder voice and a strained, cried, ‘ I challenge thee, Lord, by that word, and by that promise which thou hast made, that thou performe and make it good to mee, that call for ease and mercie at thy hands. Lord heare mee, Lord pardon mee, Lord comfort me by thy holy spirit: assure my conscience of the forgiuenesse of my sinnes, and say to my soule, that thou art reconciled.’ And so after many zealous petitions vttered to the like effect, he applied to himselfe the mercies of God in Christ Iesus, in whom he assured himselfe of God’s fauour, with earnest request, that he might continue in that assurance to the end, wherof he nothing doubted.

Afterward, being brought to the scaffold, where he was to die, he vttered many things, among which I obserued these: He acknowledged to the people, that he was come thither to suffer most deservedly: That hee had bene an offender against Almighty God, in very many respects; but that none of his finnes was so grievous vnto him, as that for which he must die: wherein, notwithstanding, he was not an actor, but a concealer only. That he was ingyred in it by the Laird of Rastalrig and his seruant

¹ Archb. of Glasc., Bis. of Brickh. (Brechin), L. Halyrudeh., Lord Collector, Lord Register, Lord Justice, D. Maxey, M. Hodson, M. P. Galoway, M. I. Hall, N. Ch. Lumsden, with others.

the Laird of Bour, both which, hee sayd, were men that professed not religion. Whereupon he ex- Aug. 1608.
horted men to take heed how they accompanied with such as are not religious; because, sayd he, with such as make not profession of religion, there is no faith, no trueth, no holding of their word, as himselfe had tried and found. But touching the treason, for the concealing whereof he was condemned, he added, That he was preferred alieue to open that secret mysterie which so long had layen hidde; That God had kept him since that attempt of the Earle Gowrie from verie manie dangers, but notedly from one, when being in apparent hazzard of drowning, he was strangely deliuered; 'which,' said he, 'was Gods worke, that I might remaine alieue vnto this happie and blessed day, that the trueth might be made knowne. And now I confesse my fault to the shame of my selfe, and to the shame of the Diuell; but to the glorie of God. And I doe it not either for feare of death, or for any hope of life, (for I haue deserued to die, and am vnworthie to liue) but because it is the trueth, which I shall feale with my blood. My fault,' sayth hee, 'is so great, that if I had a thousand liues, and could die ten thousand deaths, yet I might not make satisfaction, that I should conceale such a treason against so gracious a King.' These and the like words, when hee had spoken vpon one side of the scaffold, hee turned him to the second side, and afterward to the third, (that all the people might heare) where he spake to the same purpose as formerly he had done. And here it may not be forgotten, that in the vttering of these things his tongue serued him verie well, with words readie and significant; his memorie was perfect; his countenance reasonably erect and full of alacritie, without all feare of death; his voice was loud and audible on euery part; which was the more strange, because at the times of his examination, as also that very fore-noone, at the houre of his arraignment, his speech was low and weake; but now so strong, as if God of purpose had giuen him power to deliuer his words in such a manner, that all the people might heare and vnderstand.

When this aboue-mentioned declaration had beene made, Sprot returned to that part of the scaffold where he first began to speake, and there falling on his knees, he vttered a prayer to the same purpose, as is set down in this ensuing Treatise. And hauing ended the same, one of the Ministers praied againe, and the prisoner ioyned with him, That God would forgiue his sinnes, and receiue his soul to mercie. After which, Sprot, standing vp, made diuers requests: First, that what he had deliuered by this Confession on the scaffold, might be put into his Proesse, that the world might take notice of it. Secondly, that such as were present (as they might haue opportunity) would be futers vnto the King, that his Maiestie would forgiue him this offence, for the which, he sayd, he craved pardon of God, of his Soueraigne, and the world. And thirdly, hee desired those of the Ministerie which were present, that wheresoeuer they came, they would proclame in the pulpit his confession of his crime, his sorow for the same, and his full hope that God would pardon him. And to the end that this might be performed, hee tooke the hands of such Ministers as stood neere about him, so binding a promise on them. And heere, being told by the said Ministers and other persons of qualitie, that being so neere his departure out of the world, it concerned him to speake nothing but the trueth, and that vpon the perill of his soule: he answered, that to the end that they should know, that hee had spoken nothing but the veritie, and that his Confession was true in euerie respect, hee would (at the last gasp) giue them some apparent token, for the confirmation of the same. Then fitting himselfe to the ladder, the Executioner commeth to him, and, as the manner is, asking forgiuenesse of him; 'With all my heart,' faith hee, 'for you doe but your office, and it is the thing I desire; because suffering in my bodie, I shall in my soule be ioyned vnto my Sauour.' Ascending vp to the ladder, he desired the people to sing a Psalm with him, which they did with many a weeping eye. Hee named the sixt Psalm, and beginning it or taking it vp himselfe, in euerie verse or line thereof hee went before the people, singing both lowd and tunably vnto the very end. Then once againe confirming and auowing his former confession, he couered his owne face, and commending his soule to God, hee was turned off the ladder; where hanging by the necke some little while, hee three seuerall times gaue a lowd clap with his hands, that all

Aug. 1608. the standers by might heare : which was the signe or token (as it seemeth) which he a little before had sayd that hee would giue at his last gaspe, for the ratification and auowing of those things, which by his confession hee had so many times declared and deliuered. These things were done in the open sight of the sunne, in the Kings Capitall towne, at the Market-crosse in Edenborough, in the presence of diuers thousands of all sorts ; of the Nobilitie, of the Clergie, of the Gentry, of the Burgessees, of women and children, my selfe, with the rest of the English Ministers, standing by and looking on, and giuing God the glorie, that after so long a space as eight yeeres and eight dayes (for so it was by iust computation after the attempt of Gowrie) he was pleased to giue so noble a testimonie vnto that, which by some maligners had bene secretly called in question, without any ground or reason. I haue reported at length those particulars, which I heard and saw ; which that honourable personage who wrote this Treatise following doth somewhat more briefly deliuer, but yet both of vs very truly, as thousands can witnesse.

Out of both these narrations there may diuers obseruations be gathered. As first, how hainous a thing it is in the sight of God himselfe, for subjects of what nature or qualitie soeuer to enter into conspiracie against the life and person of the Lords Anointed ; for Almighty God hath threatened to discouer these traiterous enterprises ; and if no other way, yet by some strange and miraculous fashion. Hee who spake against cruell imaginations of the heart,¹ Curse not the King, no not in thy thought ; for the fowle of the heauen shall carie the voice, and that which hath wings shall declare the matter ; what will he do, when acts of hostilitie in rebellious maner shall be entred into ? And doth his Diuine Maiestie disclose it, and will he not also punish it ? The example of that Earle Gowrie, among thousands of others, may be a sufficient instruction in this behalfe, who, for his Soueraignes loue and gracious fauor, testified in many respects, and intended many more wayes vnto him, returning nothing but vngratefulnessse and traiterous resolutions, digged a pit for another, but by Gods iudgement fell into it himselfe : and did not only lose in one day his fidelitie, estimation and life, but ouerthrew his house and all the honour of his familie, thorow succeeding generations. Therefore farre be at all times from any noble heart to walke in his wayes, or vpon any occasion to entertaine such discontentment as may grow to vndutifulnesse ; for when the wrath of God shall ouertake men offending in this kinde, and the iustice of a King shall once proceed against them, what horror must there needs be in their bowels and conscience ? what trembling and affrighting in their very soule ? If this poore man Sprot, for concealing that odious combination, found such touches in himselfe, and such remorse in his heart, what quaking and dreadfulnessse, may we thinke, will fall on him who is guiltie of the highest act of treason and rebellion ?

Secondly, wee heere may see the Lords protection ouer Christian Kings and Princes ; whom, as hee placeth next himselfe in maiestie and authoritie, and calleth them by his owne name, I haue said,² Ye are Gods ; so he blesteth and vpholdeth them, as his Deputies and Vice-gerents, men representing himselfe, especially if sincerely they serue and feare and loue him. He is a God of order, and loneth subordination in all kingdomes and countreys, where if hee grace, countenance, and protect inferiour Magistrates, what will hee doe to the heads and chiefe gouernours of his people, who are next to his owne greatnessse ? Hee hath set them aboue other in honour and glorie, which causeth them to be more obserued according to their state : but withall, the prayers of their subjects are powred out for their welfare, day and night, and at all times ; which concurring with their owne requests to God, do find acceptance with the Highest, to their noted prosperitie and eminent felicitie. It preferueth from many perils, to haue at all houres and seasons the prayers and supplications of faithfull men and women hovering ouer their heads, which may be perpetuall remembrancers for them to their heauenly Father, if by human fragilitie and vnauidable imperfections they should forget themselves.

Thirdly, we may note, more particularly, the sauing health of God upon our gracious Souereigne ; to

¹ Eccl. x. 20.

² Psal. lxxxii. 6.

whom as the Lord hath giuen many blessings and much happineſſe beyond all his progenitours, ſo hee Aug. 1608.
hath maintained and protected his perſon in a marvellous and ſtrange maner, not onely from his cradle vnto this day, but (as it is very well knowen) from before his coming into the world. And how did the Lord free his ſeruant euen from the brincke of the pit, and from the gates of the graue at the time of Gowries attempt? As alſo ſince that day, when thoſe wicked ſonnes of Belial, the ſtaine of the land and countrey wherein they were borne, intended that Powder-treaſon? Which, as on the one ſide, it expecteth at the hands of his Maieſtie a greater thankfulneſſe to God the King of kings; ſo, on the other ſide, it calleth for vs who fit peaceably vnder his ſhadow, euerlaſting tokens of gratefulneſſe to ſo mercifull a Lord, and heartie obedience to our Souereigne, whom God hath raiſed vp, defended, protected, maintained, vpheld with his extraordinarie fauour to no common end; but to the enlarging of his Church, to the further ruine of Antichriſt; to the vniing of Kingdomes, to the comfort of all the godly diſperſed thorow Europe. And happy is hee, not who can finde deuices, and caſt imaginarie perils to hinder ſuch a worke, but who in his poore place can with a faithfull heart giue furtherance to the ſame.

Fourthly, as many blessings from heauen haue been powred on the head of his Maieſtie, ſo it is not the leaſt, that *tanquam e poſtliminio*, after ſo many yeeres, and that as from the bones of a dead man, when liuing men would not beleene it, God hath giuen farther light to the opening of the Conſpiracie of that vngodly Earle Gowrie, which ſome few perſons, affected more to a rebell that is dead, than to their liuing Souereigne, did endeavour to diſguiſe and make at their owne pleaſure. The ſtrange conceits of whome I can neuer ſufficiently woonder at; that men profeſſing conſcience and zeale to the trueth, ſhould, vpon no kind of ground or ſhew of probabilitie, ſuffer ſuch vnreuerent thoughts to enter into their hearts, eſpecially againſt his ſacred perſon, whoſe life hath beene ſo immaculate and vnſpotted in the world, ſo free from all touch of viciouſneſſe and ſtaining imputation, that euen malice it ſelfe (which leaueth nothing vnſearched) could neuer finde true blemiſh in it, nor caſt any probable aſperſion on it. Againſt his ſacred perſon, whom as they muſt acknowledge to be zealous as Dauid, learned and wiſe as the Salomon of our age, religious as Ioſias, carefull of ſpreading Chriſts faith as Conſtantine the Great; ſo if they will ſpeake trueth, they muſt confeſſe to be iuſt as Moſes, vndeſiled in all his wayes as Iehofaphat or Hezechias, full of clemencie as another Theodoſius, farre from ſpilling the blood of any of his Nobilitie, but rather ſparing thoſe who haue liſt vp their hand againſt him. Notwithſtanding, when prepoſterous affection had ſo blinded theſe men, that they would not ſee this trueth, the Lord hath giuen light yet once more, to the rectifying of their iudgements. A ſingular example of Gods vnlimited and vnbounded wiſdome, who will doe things as he liketh. That when as S. Iohn ſayth, ¹ *Qui ſordefcit, ſordefcit adhuc*, He that liſt to be preuiſh, and refractarie, and ſelfe-conceited, did thinke hee might haue perſiſted and died in that peeuilineſſe and refractarie conceit, and ſuppoſed that neuer any thing in this world ſhould haue been able to reforme him, may ſee before his face ſo illuſtrious a teſtimony of his miſconceited fancie, and almoſt vnſatiſfiable vndutifulneſſe, that vnleſſe his face be hardened and his heart obdurate againſt both heauen and earth, he muſt ceaſe to be peruerſe. God is the God of trueth; and he who is the protectour of innocency in the pooreſt, will certainly be the maintainer and defender of integritie and ſinceritie in his nobleſt and deareſt ſeruant. It is fit that he ſhould haue his owne will, to put off and prolong his mercies till the time which ſeemeth good to himſelfe, that men may wait vpon him, and patiently expect, and ſtill tarie the Lords leiſure: yea, that his power may be known, who can bring light out of darkneſſe, an good out of euill, and trueth out of treaſon; who can giue hope beyond hope. But when hee is once reſolued that things acted in ſecret ſhall be preached vpon the houſe top, that iniquitie ſhall be opened, that ſimplicite ſhall be cleered, and innocencie diſburdened of ſcandalous imputations, if men would not ſpeake, or children found out the trueth in the ſtreets, ² yet the verie ſtones ſhall crie, as our Sanionr once answered to the

¹ Apoc. xxii. 11.² Luc. xix. 40.

Aug. 1608. maligning Pharisees. Blessed be the God of iustice, who cleereth vp the fame of his holy ones, when malice would obscure it.

Lastly, heere may be a warning to men of mine own profession, I meane the Ministers of the Gospell, that in cases of highest nature between a King and his rebell, they conceine not things to the woorst, and (because they will be opposite to him whom most of all they should honor) by buzzings and whisperings, and secret suggestions, without all ground of trueth, labour to sow sedition in the eares of women and children, or in the mindes of men either weake or ill disposed.¹ For as the ² lips of the Priest should alwayes preferue knowledge, so should they preferue trueth. And we are to go before our flocks and congregations, in obedience and obsequiousnesse vnto the Christian Magistrate, not in sowing sedition, or making of mutinies, to the disturbance of the State. Who should sticke closer to Moyse, welding so huge a charge, than Aaron and his tribe? And who should rather labour to doe his Prince all right, than the Minister of the Gospell, who, next after teaching men their dutie to God, is made to teach obedience and respectiuenesse vnto Kings? And who more deserueth to be chastised than he, if he wilfully transgresse?

These things I thought not amisse to obserue to thee, Christian Reader, before thou come to the perusing of this plaine and true narration, touching the examination, arraignment and death of the person here described. God Almighty bleesse the Kings Majestie, grant vnto him many dayes full of pietie and felicitie; and after this mortall life expired, send him an everlasting crown of glorie, through Iesus Christ our Lord. Amen.

Thine in the Lord,

GEORGE ABBOT.

THE EXAMINATIONS, &c. of GEORGE SPROT, *Notary in Aye-mouth.*



THOUGHT good (gentle Reader) for satisfaction of the true hearted and well-affected subjects to their gracious Soueraigne, and closing of the mouthes of his malicious enemies, to spend a little time in discourse of a strange and almost miraculous accident, that fell out of late, anent the renealing of the practises of GOWRIES treasonable CONSPIRACIE, intended against his Highnesse royall person. Which purpose was hidden and concealed, vntill the time it pleased God to moue one GEORGE SPROT (who was prinie thereto) to manifest and confesse the same, as by this that followeth may appeare.

This Sprot, after diuers examinations, being moued with remorse of conscience, for the long concealing of the fore-knowledge of this treasonable conspiracie, confesseth, declareth and deponeth, with the perill of his own life, That he knew perfectly, that ROBERT LOGANE, late OF RESTALRIG, was prinie and vpon the foreknowledge of Gowreis treasonable conspiracie. And for the greater assurance of his knowledge, deponeth, That he knew there wer diuers Letters interchanged betwixt them, anent the treasonable purpose aforesayd, in the beginning of the moneth of Iuly, 1600. Which Letters Iames Bour, called Laird Bour, seruitor to Restalrig, (who was imployed mediatour betwixt them, and priuy to all that errand) had in keeping, and shewed the same to Sprot, in the place of Fast-Castle. The first of Gowreis Letters, containing in effect, as followeth:

GOOD LAIRD OF RESTALRIG,

You vnderstand what conditions should haue beene betwixt vs, ofbefoir. Indeed, I purposed to haue come by your house; but vnderstanding of your absence in Lothiane, I came not. Alwayes, I with you either your selfe to come West, or els to send some sure messenger, who may conferre with mee, anent the purpose you know. But rather would I with your selfe to come, not only for that errand, but for some other thing that I haue to aduise with you.

¹ This is an evident allusion to the blind obstinacy of Mr Robert Bruce.

² Mal. ii. 7.

To the which Letter Restalrig wrate an answer, and sent the same to the Earle of Gowrie, by the Aug. 1608. said James Bour, of the tenure following: [The Letter is here inserted.¹]

Which letter, written every word with Restalrigs owne hand, was subscribed by him after his accustomed maner, 'Restalrig:' And was sent to the Earle Gowrie by the sayd James Bour. After whose returne within five dayes, with a new letter from Gowrie, he staid all night with Restalrig in Gunnes-green:² and Restalrig rode to Lothiane, the morne thereafter; where he staid five or six dayes. Then, after his returning, past to Fast-Castle; where he remained a certeine short space. And farther deponeth, that he saw and heard Restalrig reade the last letter, which Bour brought backe to him from Gowrie, and their conference thereanent. And heard Bour say, 'Sir, if ye thinke to make any commoditie by this dealing, lay your hand to your heart.' And Restalrig answered, that he would do as he thought best. And farther sayd to Bour, 'Howbeit he should sell all his owne land that he had in the world, he would passe thorow with the Earle of Gowrie; for that matter would giue him greater contentment, nor if he had the whole kingdome: and rather or hee should falsifie his promise, and recall his vow that hee had vowed to the Earle of Gowrie, hee should spend all that hee had in the world, and hazard his life with his Lordship.' To whom Bour answered: 'You may doe as you please, Sir, but it is not my counsell, that you should be so sudden, in that other matter. But for the condition of Dirlton, I would like very well of it.' To whom Restalrig answered, 'Content your selfe, I am at my wits end.' And farther Sprot deponeth, that he entred him selfe, there-after, in conference with Bour, and demanded, 'what was done betwixt the Laird and the Earle of Gowrie?' And Bour answered, 'that hee belceued that the Laird should get Dirlton, without either golde or siluer; but feared that it should be as deare vnto him.' And Sprot inquiring 'how that could be?' Bour sayd, 'They had another pie in hand nor the selling of any land:' But prayed Sprot, for God's sake, that hee would let be, and not trouble himselfe with the Laird's businesse; for he feared, within few dayes, the Laird would either be landleffe or lifelesse. And the said George Sprot being demanded, 'If this his deposition was true, as he would answer vpon the saluation and condemnation of his soule; and if hee will go to death with it, seeing he knoweth the time and the houre of his death to approach very neere?' Deponeth for answer, that hee hath not a desire to liue; and that he knowes the time to be short, hauing care of no earthly thing, but only for cleering of his conscience, in the truth of all these things, to his owne shame before the world, and to the honour of God, and safetie of his owne soule; that all the former points and circumstances contained in this his deposition, with the deposition made by him the fift day of Iuly last, and the whole remanent depositions made by him sen that day, are true; which hee will take on his conscience, and as hee hopeth to be faued of God, and that he would seale the same with his blood. And farther, being demanded where this aboue written letter, written by Restalrig to the Earle of Gowrie, which was returned againe by James Bour, is now? Deponeth, that hee abstracted it quietly from Bour, in looking ouer and reading Bours letters, which he had in keeping of Restalrigs; and that he left the aboue written letter in his chest among his writings, when hee was taken and brought away, and that it is closed and folded within a piece of paper.

This foresaid deposition was made by him the tenth of August 1608, written by James Primerose, Clerke of his Maiesties Priue Counsell, and subscribed with the sayd George Sprot's owne hand, in the presence of the Earle of Dunbar, the Earle of Lothiane, the Bishop of Ross, the L. Schune, the L. Halyrudehoufe, the L. Blantyre, Sir William Hart, his Maiesties Iustice, Mr John Hall, Mr Patrick Galloway, Mr Peter Hewart, Ministers of the Kirkes of Edenborough. Subscribed with all their hands.

And also, the eleuenth day of the foresaid moneth and yeere, the said George Sprot being re-examined, in the presence of a number of the Counsell and Ministers afore said, and it being declared to

¹ As the Letters are inserted at length, from the Originals, preserved in the General Register House, Edinburgh, it has been thought unnecessary to reprint them here, in abstract.

² A house of Restalrig's.

Aug. 1608. him, that the time of his death now verie neere approached, and that therefore they desired him to cleere his conscience with an vpriight declaration of the trueth; and that he would not abuse the holy name of God, to make him, as it were, a witnesse to vntrueths: and specially, being desired that he would not take vpon him the innocent blood of any person, dead or quick, by making and forging lies and vntruths against them: Deponeth, that he acknowledgeth his grieuous offences to God (who hath made him a reasonable creature) in abusing his holy name with many vntrueths, fen the beginning of this proceffe: but now being resolu'd to die, and attending the houre and time when it shall please God to call him, he deponeth, with many attestations, and as he wisheth to be participant of the kingdom of heauen, where he may be countable and answerable, vpon the saluation and condemnation of his soule, for all his doings and speeches in this earth; that all that he hath deponed fen the fifth day of Iuly last, in all his fenerall depositions, were true, in euery point and circumstance of the same; and that there is no vntrueth in any point thereof. And hauing desired Mr Patricke Galoway to make a prayer, whereby he might be comforted now in his trouble; which was done: The said deponer, with many teares, after the prayer, affirmed this his deposition to be true: and for the confirmation thereof, declared, that he would seale the same with his blood.

And the next day thereafter, being the twelfth of the foresaid moneth of August, the said George was brought forth and presented in iudgment vpon pannell, within the Towlebewth of Edenborough, before Sir William Hart of Preston, his Maiestis Iustice; and there, in a fenced Court holden by him that day, assisted by the honourable persons following, his ASSESSORS in that errand: They are to say,

Alexander Earle of Dumfermling,	Dauid Earle of Crawford,	Michael L. Burley,
L. Chancellor,	Marke Earle of Lothiane,	Sir Richard Cockburne of Clark-
George Earle of Dunbar, Treas-	John L. Abernethy of Saltoun,	intoun, Knight,
urer,	James L. of Balmerinoth, Secre-	Mr Iohn Preston of Fenton Barnes,
Iohn Archbishop of Glascow,	tarie,	Collector Generall,
Dauid Bishop of Ross,	Walter L. Blantyre,	Sir Iohn Skeyne of Currhill,
Gawin Bishop of Galloway,	Iohn L. Halrudehouse,	Knight, Clerke of Register;
Andrew Bishop of Brechine,		

was delated, accused, and pursued by Sir Thomas Hamilton of Binning, Knight, Aduocate to our Souereigne Lord, for his Highnesse Entries, of the crimes contained in his Inditement, produced by the said Aduocate; whereof the tenure followeth. [Here follow the Dittay and proceedings in the Court of Justiciary, in terms similar to those recorded in the Books of Adjournal.]

The doome being pronounced, the said George was conuoyed to a priuie house; where he remained at his secret meditation, and afterwards in conference with the Ministers and others, vnto the time all things was provided necessarie for his execution: and being brought to the place where he was to die, he, in publike audience of the whole people, at the three sides of the scaffold, ratified the former depositions made by him concerning the treasonable practices intended and deuised betwixt Gowrie and Restalrig, for the murdering of our most gracious Souereigne, and bereauing his Highnesse of his life, and his owne knowledge and concealing of their guiltinesse. [Here a copy of Sprot's Confession is inserted. See a correct transcript of this extraordinary paper, p. 260.]

By this Narration aforegoing, each man may learne, that the contrining and plotting of treason against Kings and Princes, is a thing odious in the sight of God, and therefore ordinarily is disclosed by him, at first or at last, by one meanes or another: and that it is not good to conceale any such Conspiracie intended by enemie or friend, because the life and safetie of a Christian King, who is the common Father of the Countrey, ought to be dearer to all good men, than the loue or acquaintance of any whatsoener: who howbeit hee make shew of manie faire things in him, yet in this alone, That hee purposed euill against the Lords Anointed, sufficiently declareth himselfe to be of a rebellious and

vngodly disposition. And how wofull the fruit is either of such traitourous resolutions, or of the concealing of them, may be seene (as in a glasse) both in the fudden end of the Earle Gowrie, and in the execution of this George Sprot with more deliberation. Aug. 1608.

(4.) NARRATIVE OF SPROTT'S EXECUTION, &c.

[IN the course of pursuing the researches necessary to be made, owing to the task which the Editor had imposed upon himself, of collecting such original and authentic information, bearing upon all the facts connected with Gowrie's Conspiracy, as could now be procured, he discovered the following curious fragment, among the voluminous MS. Collections of Wodrow, preserved in the Library of the Faculty of Advocates, in an anonymous MS. marked 'Hist. of Church of Scotland.' Rob. III. 2, 9. It is evidently written by some person who entertained ideas unfavourable to the reality of the Conspiracy; but, notwithstanding the turn he attempts to give to the declarations of Sprott, and certain gratuitous assertions occasionally introduced by him, on the whole, it unquestionably establishes the author's belief of the veracity of Sprott, and the truth of his dying Confessions; and being written by a professed partisan of the family of Gowrie, this paper becomes more important than had it contained a fulsome detail, and concluded with a panegyric on the King.]

UPON the xij day of August 1608, thair wes ane man hangit at the Croce of Edinburgh, for conceiling of the Treffoun committit be the vmq^{le} Erle of Gowrie, in maner aforwrittin. The manis name wes callit George Sprott, nottar in Eymouth. The maner of his reueiling of the said Treffoun, wes in this forme. The said George wes apprehendit in the moneth of Aprile, or thairby, 1608, vpoun sum informatioun that he had maid of the said Treaffoun of before: And being brocht to Edinburgh, and thairefter examinat be the Lordis of Secrete Counfall, thair wer producit Letteris quhilkis wer fund in his hous, writtin be the vmq^{le} Laird of Restalrig that last deceffit, ane godles drunken deboschit man in his tyme, direct to certane perfonis, quhais names culd not be maid knawin, feing the Letteris were not direct on the bak; making mentioun of the proceeding of the said Erle of Gowreis Treffoun, and about sum meiting thairanent, to have bene betuix the Erle and his brother and the said Laird of Restalrig, in his hous of Fafcastell: And being particularlie examinat, he clerit many thingis to the Counfall, and causit findrie men of rank to be suspectit. And to the effect he nicht the better declare the mater, he ressauit sum choppis (*strokes*) in the buittis, and abyding, that thay Letteris wer writtin be the Laird of Restalrig, and be his Depositionis that he had deponit. It wes thoecht very strange be mony, that the Erle of Gowry and his brother fuld have communicate sic ane hich turne, to the knowledge of sic ane deboschit drunken man as the Laird of Restalrig; and yit, all that saw the writtis and knew the Laird of Restalrigis handwritt, affirmit it wes the same. And thairefter, the said George being vrgit to depone quhat forder he knew in the said mater, to the forder satisfacioun of the Counfall, and being buittit to that effect, he than with grite and solemne aithis declairit that all wes fals that he had writtin or said in the said mater; and willit thame that wer his auditouris, that gif euir at ony tyme thairefter he fuld say or write

Aug. 1608. vtherwayis, that thair fuld be na credit gevin thairto.¹ And sua, the mater lying over till my Lord of Dunbaris cuning into this cuntrey, he than causit tak the said George Sprot furth of waird, and causit cure his leggis, quhilkis wer very ewill woundit with the buittis; and thairefter causit present him before the Counfall; quhan he ratifeit all that euir he had said first in the said mater, and declairit, that albeit the Letteris wer writtin and deuyfit be him selff,² yit the subiect quhairupoun he wrait thame wes trew; and declairit that he wes preuy to the knawledge of the said Tressoun, and dilatit all the particular circumstances of his knawledge. And thairefter, vpoun the day foirsaid, being put to the knawlege of ane Assyse, he planelie confessit him selff to haue bene preuy to the knawlege of the said Tressoun, and that thairfore, he deseruit maist worthelie to die. And thaireftir, being brocht to the place of execution, quhair thair wes present with him findrie of the Counfall and findrie of the Ministrie, with grite nowmer of people; and being posit, as he sould be partaker of lyf eternall, that he sould declare the veritie, maist planlie confessit, that he had nather promise of lyf, nather rewaird to his wyf and bairns efter his deceas, nor ony vther thing that movit him, bot simple the grudge of his awin conscience. And sua, declairit that quhat he had deponit in the said mater wes trew; and that he wes preuy to the knawlege of the said Treassoun, and cravit God pardoun thairfore; and besocht the pepill to pray for him; and sua deit very penitent. And thairefter, his body wes brokin and quarterit, and his heid putt vp besyd the Erle of Gowreis.

No. XV.

Forfeiture for High Treason—Gowrie's Conspiracy.

ROBERT LOGAN, eldest sone to vmq^{le} ROBERT LOGANE of RESTALRIG.

[It is not the purpose of the Editor, here, to enter into any vindication of the conduct of the Lord High Commissioner and the Parliament of Scotland, for their insisting so rigidly on the Forfeiture of the heir of the deceased traitor Restalrig. Such were then considered to be the Laws of this country, in

¹ It seems clear, that this retraction of his former voluntary Confessions, was only extorted from Sprott by the extremity of the torture suffered by him in 'the buittis.' For no sooner is he rid of them, and patiently examined on oath before the Privy Council, than he explicitly declares the truth of his previous Declarations; and these he, with unswerving confidence, continued to repeat, until the moment of his death. The administration of the torture to this person to so exquisite a degree (however reprehensible the practice unquestionably was), proves the extreme anxiety of his examiners to draw out the truth from this person, even though this should be to the discredit of the King's repeated attestations. Their integrity, therefore, is deserving of the highest praise—for had they been acting as mere time-servers, it would have been enough for them to have encouraged Sprott in his repeated asseverations.

² This assertion is entirely gratuitous on the part of the anonymous writer, and is disproved by the Declarations, so fervently emitted by Sprott, as a dying man, attested by many respectable and unexceptionable witnesses, such as Archbishop Spottiswood, several members of the Privy Council of Scotland, the Ministers of Edinburgh, the Bishop of Galloway, and the Bailies of Edinburgh, &c. In addition to this, the testimony of such a host of witnesses, at the Forfeiture of Logan of Restalrig, proves the authenticity of these Letters beyond the shadow of a doubt; if any effect is to be given to human testimony, in such a matter.

aggravated cases of High Treason; and it is by no means unnatural that this Parliament should have pressed for their most rigorous enforcement, immediately after the occurrence of so unexpected a discovery. The extraordinary disclosures of the real facts and circumstances attending the origin and progress of the Conspiracy, which had been so long concealed by Sprott, and his unswerving adherence to his Confessions, had an irresistible effect upon the opinions of such portions of the community, as had, till then, remained in their incredulity. These doubts unquestionably originated with the perverse conduct of Mr Robert Bruce, whose talents and integrity were universally respected by the Presbyterian party, and had placed him in the situation of leader and organ of that body. The injudicious attempts which were made by the King and Council, to concuss him into a public profession of implicit reliance on every item of 'the Account published by authority,' and to force upon him, not only the subscription of a certain *formula*, but besides publicly to recite this paper, and to preach upon the subject, in the exact terms pointed out to him, from the pulpit all over the kingdom, tended much to rouse the suspicions of the doubting. His stubborn and bold spirit, which had in it much of the intrepidity of John Knox, could by no means brook such indignity, and accordingly he went into the banishment which was awarded him. The particulars of his extraordinary correspondence, and the conferences he had with the King, shall be given in the present Collection.

One remarkable circumstance attended these Cases of Logan and Gowrie.¹ The dead bodies of the traitors were actually produced in Court; and, in the latter case, sentence was pronounced against the corpses of the Earl of Gowrie and Mr Alexander Ruthven. In Logan's case, his bones, which had been buried for several years, were dug up and produced at the bar; but no warrant for burning or public exposure is contained in the doom of Forfeiture; and the Editor does not find that such was resorted to, although the matter excited the strongest feelings and the utmost detestation of his memory. On this subject, it may be interesting to many, to notice some illustrations of so extraordinary a subject.

Sir George Mackenzie, in his Treatise on the Criminal Law, B. I, Title 6, § 22, says, 'Albeit the bones of the defunct traitor are ordinarily taken up and brought to the pannel, in pursuits of this nature, as was done in the forefaulture of the Laird of Restalrig, yet this is not necessary.' Lord Hailes, in an interleaved copy of the Earl of Cromarty's Account of the Conspiracy, remarks, 'He is certainly in the right; for the bones of a traitor can neither plead defences, nor cross-question witnesses; and upon this matter, there is no difference whether the accused person be absent in body or present in bones!' *Paulus Jovius*, in the History of his own Times, vol. i. Lib. 2, p. 50, Edit. Venetiis, 1553, notices a similar instance. 'Innocentium namque Catiam Opicini propinquum Ludouicus Sfortia aliquot antè annis facto functum, objectis quibusdam criminibus, è sepulchro in jus vocari damnarique jusserat, ut bona illius veluti convicta judicio per leges fisco addicarentur. Quod sicuti inauditum et execrabile visum est, ita illi singularem invidiam concitavit.' *Bishop Guthrie* also in his Memoirs, Glasg. 1747, p. 250, mentions, in the case of Archibald Lord Napier, 'The Committee resolved to raise his bones, and pass a sentence of forefaulture thereupon: And for that end, Letters were raised and ordained to be executed at the pier and shore of Leith against Archibald Lord Napier his son, then under exile, for his loyalty, to appear upon sixty days' warning, and to hear and see the same done. And when his friends were startled at the noise of it, and made enquiry what was meant by it? They found it was only to draw money from the present Lord Napier, for the use of some sycophants that expected it: And so, they advanced five thousand merks to that end; and thereupon the intended forfaulture was discharged.' See also *Limborch, Historia Inquisitionis*, lib. 4, c. 8, pp. 357, 363.

¹ See also the case of Francis Mowbray, Jan. 31, 1603; who, in his attempt to escape from the Castle of Edinburgh, (where he had been confined on a charge of High Treason,) by means of cutting his blankets and letting himself down from his window, fell, and expired in a few hours. His body was brought to the bar, before an Assise; and ordered to be gibbeted, drawn, and quartered, &c. The case of the Archbishop of Spalato, 1624, *Somers's State Tracts*, vol. ii. p. 30, may likewise be referred to, as illustrative of this practice.

June, 1609. *Sententiæ Tholosanæ*, pp. 162, 167, 248, &c.—‘*Accusati post sepulturam, decretumque ut more majorum punirentur.*’—*Tacit. Annal.* 15.—‘*Cum accusatores ac testes perorarent, respondente nullo, miseratio quam invidia augebatur.*’—*Tacit. Annal.* 3.

The first recorded instances, in Scotland, occurred in the reign of King James V., viz. the case of Robert Leslie, and that of James Colville of East Wemyss, Dec. 4, 1540, which were continued from time to time to 1542; when by Act of Parl. cap. 13, it was declared, that all such actions, in future, against the heirs of deceased Traitors, must be led within *five years* after the decease of ‘*pame pat notourlie committis or fall committ crimes of Leife-maiestie aganis pe Kingis perfoune, aganis pe realme for evertioune of pe fanin, and aganis paim pat fall happin to betraife pe Kingis army, alanerlie.*’—*Acta Parl.* vol. ii. p. 415. The practice was founded on the Civil Law, *Corpus Sur. Civ. Dig.* ad L. Juliam Maj. L. ult.—It is only necessary, in farther illustration, to refer to our learned Commentator on the Criminal Law, *Hume on Punishment for Crimes*, vol. ii. p. 458; *Mackenzie on Crimes*, p. 29, No. 22; and *Mack. Obs. on Stat.* pp. 136-7.

As will be seen by the Warrant inserted at the end of these proceedings, the Lord Advocate was directed, by the Privy Council, to prepare the summons against Logan’s representative, and to insist in its pursuit, after thoroughly investigating Sprott’s Conviction and Confessions, and examining the witnesses, whose depositions follow. Sir Thomas Hamilton’s Report to his Majesty has been recovered among the Denmylne Papers, and is also appended. It need hardly be remarked, it is a most important and interesting document.]

(Jun. 24.)—SIR THOMAS HAMYLTOUN of Bymie knycht, Aduocat to oure fouerane lord, producit in prefens of the noble and nichtie lord, the Erle Marfchaill Commiffionar and in prefens of the haill Estaittis, lyk as [he] did diuerfe tymes of befor, ane Summondis of Treassoun, raist and perfewit be oure said fouerane lord, and be the said Aduocat aganis Robert Logane eldest sone to vnq^{le} Robert Logane of Restalrig and his tutouris and curatouris, gif he ony hes, and all vtheris haveand or pretendand to haue interes in the said mater, for thair interesse; to haue answertit to the said summondis, and to the crymes of Treassoun and Lese-ma^{tie} conteuit thairintill: The quhilk summondis and reffones and causses thairin contenit, being first red in prefens of the lordis of Articlis of this present Parliament, they fand the samyn summondis relevant: And thaireftir this instant day, the samyn summondis of Treassoun and reffones and causses thairin contenit being red, in prefens of the said Lord Commiffionar and of the haill Estaittis of Parliament, the said Robert Logane eldest sone to the said vnq^{le} Robert Logane of Restalrig and his tutouris and curatouris, and all vtheris haveand or pretendand to haue interes, being thryfe callit at the tolbutth window, to haue answertit to the said summondis of Treassoun, and comperit nocht, the saidis haill Estaittis fand the said Summondis of Treassoun raist be our said fouerane lord and his hienes Aduocat aganis the said Robert Logane and his foirsaidis, and the reffoun and cause contenit thairin, maist relevant causses of Treassoun committit be the said vnq^{le} Robert Logane of Restalrig his father, in his lyfityme: And thairfoir the saidis Estaittis, all in ane voce, Admittit the samyn summondis of Treassoun, and reffoun and cause of Treassoun contenit thairin, to the said Aduocat, in oure

foverane lordis name, his probatioun : Quhairvpoun the said Aduocatt, in name June, 1609. of his hienes, askit actis and Instrumētis.

SUMMONS of Treason and forfeiture of the Memory and Estates of the deceased ROBERT LOGANE of RESTALRIG.

JACOBUS Dei gratia, Magne Britannie, Francie et Hibernie Rex, fideique defensor : Dilectis nostris Leoni Regi armorum, Merchemount, Ilay, Rofs, Rothefay, Albanie et Snawdoun, hierauldis ; Davidi Bryfoun, Alexandro Dowglas, Jacobo Chalmier et Magistro Willelmo Stewart, clavigeris ; Ormount, Bute, Vnicorne, Carrik, signiferis, nuncijs, ac eorum cuilibet, coniunctim et divisim, vicecomitibus nostris in hac parte specialiter constitutis : Salutem. Mandamus vobis et precipimus, quod summoneatis legitime et peremptorie, coram testibus, ROBERTUM LOGANE filium primogenitum et heredem apparentem quondam ROBERTI LOGANE DE RESTALRIG, personaliter, si eius personalem presentiam habere poteritis ; sin minus, apud domicilium et locum habitationis sue, necnon dictum Robertum Logane eiusque tutores et curatores, si quos habet, omnesque alios interesse habentes seu pretendentes, per publicationem apud cruces forales burgorum nostrorum de Edinburcht, Hadingtoun, Dunse, Grenlaw, aliaque loca necessaria, ita vt huiusmodi summonitio ad eorum aures et notitiam verisimiliter pervenire possit ; ad comparendum coram nobis nostrove Commissionario et Justiciario, ac regni nostri Scotie Ordinibus, in Parlamento nostro apud Edinburgh, vel vbi nos nostrumve Commissionarium ac Justiciarum et dicti regni nostri Ordines pro tempore convenire contigerit, tenendo duodecimo die mensis Aprilis proxime futuri, hora causarum, cum continuatione dierum ; ad respondendum nobis seu nostro Justiciario in dicto nostro Parlamento, necnon ad instantiam dilecti et fidelis consiliarii nostri Thome Hammyltoun de Bynnie militis, nostri Aduocati, pro nostro interesse : Et ad videndum et audiendum, per nos aut nostri Commissionarij, Justitiarij et trium dicti regni nostri Scotie Statuum, decretum et sententiam decerni dictum quondam Robertum Logane de Restalrig, crimina Lefemaieftatis infra-scripta in vita sua commississe, eorumque conscium et participem fuisse, eaque approbasse et calasse : Ideoque Memoriam eius damuari, et bona omnia mobilia et immobilia, jura aliaque omnia ad eum infra dictum nostrum regnum spectantia, nobis confiscari et perpetuo nobiscum modo infra-scripto remanere debere ; ob causas et rationes sequentes. QUUM enim quondam JOANNES olim COMES DE GOWRIE et quondam MAGISTER ALEXANDER RUTHVENE eius frater, nulla pronocati iniuria, sed multis magnisque devincti nobis beneficijs, in necem nostram, mense Julio aut eo circa, anno Domini millesimo sexcentesimo, ingrate, crudeliter, nefarie, et proditorie Coniurassent ; et de asciscendis in sce-leris consilium et partem socijs consultantes, neminem ad tam immane nefas aut suscipiendum aut patrandum aptiorem promptioremve dicto quondam Roberto Logane de Restalrig existimarent : Ideoque dictus quondam Joannes olim Comes de Gowrie dictum quondam Magistrum Alexandrum Ruthven suum fratrem ad dictum quondam Robertum Logane de Restalrig misisset, cum vt dicti horrendi sce-leris consilium et executionis destinatum ordinem ei significaret, tum etiam vt eum hortaretur vt eos consilio et auxilio suo, in tam nefando facinore perpetrando juuaret ; dictus quondam Magister Alexander dictum quondam Robertum Logane de Restalrig, in Vico Canonicorum opportune conveniens, omnem Proditionis seriem ei patefecit, dictusque quondam Robertus Logane pro sua ad scelera omnia naturali et inveterata propensione, adeo gratam sibi eam coniurationem esse declaravit, vt fide data et accepta, crebrisque cum dicto quondam Magistro Alexandro ea de re, in dicto mense Julio, habitis ser- monibus, omnem tandem tuto et secrete peragendi criminis ordinem proditorie constituerunt ; atque in ea crudeli et scelestissima voluntate, dictus quondam Robertus Logane de Restalrig, non solum perti- naciter et proditorie perseveravit, sed crebris nuntijs Literisque per quondam JACOBUM BOUR de Bour- houfe alias *Laird Bour* vocatum ad quondam Comitem de Gowrie missis ; quibus dicti quondam Co- mitis Literis super ea re acceptis, respondebat dictum quondam Joannem olim Comitem de Gowrie

June, 1609. enixe ad constantiam in prefato scelere prosequendo et perpetrando proditorie hortatus est, arcemque suam de Fastcastell, natura et arte munitissimi, post scelus proditorie peractum, paratum tutumque coniuratis refugium futurum promisit, si tribus aut quatuor socijs comitatus dictus quondam Comes eo se recipere in cymba piscatoria vellet. Et quamvis nomen nostrum et de cæde nostra expressam mentionem in dictis Literis, quondam Robertus Logane, vt in tam sædis proditionibus fieri solet suppresseret; ea tamen adeo dilucide et perspicue habita temporis et circumstantiarum facti in dictis Literis descriptione expressit, vt nil clarius manifestiusque esse possit. Cum tandem, quinto die mense Augusto, anno Domini millesimo sexcentesimo, quem cædi nostre diem destinauerunt, dictus quondam Joannes olim Comes de Gowrie missus ad nos Falcolandiam dicto quondam Magistro Alexandro Ruthvene fratre suo, fraudulenter et nefarie nos Pertham pertraxisset, et in secretius cubiculum, exclusis viris nobilibus domesticisque nostris, qui et pauci et inermes, instituta eo die venatione relicta nos eo secuti erant, dictus quondam Magister Alexander duxisset, ibique vim vite nostre proditorie afferre enixe conatus fuisset; Nosque Divino favente Numine, licet et armis et alia omni humana ope destituti, tam atrocem violentiam diu propulsassemus, donec clamore nostro accitis, qui in propinqua Urbis platea nostrum ex Urbe exitum operiebantur fernis nostris, Dei mira Providentia, Dominus Joannes Ramfay, (Vicecomes Hadingtonie,) accurrens, et dictum quondam Magistrum Alexandrum nos opprimere conantem cernens, stricto pugione in pectus ipsius addacto, eum fugere coegit; quem Dominus Thomas Erkyne, (Fentonie Vicecomes,) ad auxilium nobis in dicto discrimine ferendum, pro eximia sua in nos fide properans, dictum Magistrum Alexandrum lethalibus vulneribus confecit: Ac dictum quondam Joannem olim Comitem de Gowrie, ad ceptum scelus perficiendum, multis stipatus Coniuratis, ferociter accelerantem, dicti Vicecomites de Hadingtoun et Fentoun prohibere conantes, summoque cum vite sue discrimine, nostrum periculum propulsantes, et vitam nostram honestis vulneribus acceptis protegentes; tandem dictus Vicecomes Hadingtonie dicti quondam Comitis cor, proditionem spirans et sanguinem nostrum audissimè sitiens, ense sua ferociter et feliciter transfixit. Cuius Prodicionis, quamvis nos dictum quondam Robertum Logane de Restalrig reum esse ignoraremus, ipse tamen sua damnatus conscientia, ac semper timens ne dictus quondam Jacobus Bour, dicte Coniurationis conscius, rem omnem detegeret; sepius cum dicto Jacobo egit, vt fidem sibi de ea Prodizione celanda obstringeret; tandemque per dictum quondam Jacobum certior factus quondam Georgium Sprott notarium in Aymouth, tum visis ipsius quondam Roberti ad dictum quondam Comitem de Gowrie ea de re Literis scriptis, apud Gwnnifgrene, priusquam clausæ fuissent pluribus diebus ante patratum scelus: Et post detectam Coniurationem (quod dictus quondam Jacobus Bour literarum prorsus ignarus, dicti quondam Georgii opera in legendis scriptis omnibus ad eum missis vel pertinentibus utebatur) quædam etiam dicti quondam Roberti Literas super ea Coniuratione apud dictum Jacobum Bour fortuito vidisse, quare dicto quondam Comite de Gowrie, postquam eas legisset, ad dictum Robertum Logane reportandas, dictus quondam Jacobus Bour retinuerat. Sicque Coniurationis perfectam noticiam habere, eiusdem dictum quondam Robertum conscium esse et participem intelligere, dictus quondam Robertus Logane de Restalrig cum utroque diligentissime egit, multisque vnicuique eorum datis muneribus, persuasit vt dictam Prodicionem pro perpetuo cælerent, obtinuitque vt se viuo nunquam revelaretur: Neque prius horrendum illud dicti Roberti maiestatis crimen detectum fuit, quam dictus quondam Georgius Sprott, Divino vt apparuit inspirante numine, ad vindicandam nostram ab improborum calumniis famam, predictam proditoriam Coniurationem, et dicti quondam Roberti Logane eiusdem reatum, multis constantissimis Confessionibus, vtro patefecit; et dicti quondam Roberti Literis quas a dicto quondam Jacobo Bour acceperat prolatis manifestavit; ac constanti, pia et penitenti ob tam horrendum facinus, tam diu cælatum, morte feliciter confirmavit. Cuius crudelis, nefarij et proditorij facinoris, et Lese maiestatis criminis, dictus quondam Robertus Logane de Restalrig, in vita sua, fuit ars et pars, conscius et particeps: Idque ipsius persuasione, hortatu, consilio et auxilio, susceptum et perpetratum fuit, dictusque quondam Robertus dictum scelestissimum Maiestatis crimen ad mortem et in morte proditorie cælavit: ET PROP-

TEREA, dictus Robertus Logane, filius et heres apparens dicti quondam Roberti de Logane de Restalrig, Juno, 1609. rig, eiusque tutores et curatores, si quos habet, omnesque alii interesse habentes seu pretendentes, ad videndum et audiendum nomen, Memoriam et dignitatem dicti quondam Roberti Logane de Restalrig extinctum fore et esse decerni, armaque et insignia sua de Libro Armorum et nobilitatis deleri et cancellari, ita ut ipsius posterius ab officiis, honoribus, dignitatibus, terris, tenementis, prediis, redditibus, possessionibus, omnibusque bonis, mobilibus et immobilibus, iuribusque et alijs in hoc regno nostro Scotie possidendis et gaudendis, sint inhabiles et incapaces de hinc imperpetuum; atque omnia bona, terras, predia, tenementa, atque alia quecumque bona, mobilia et immobilia, jura aliaque ad dictum quondam Robertum Logane de Restalrig pertinentia, vel que ad illum post initum scelestæ factionis et proditorii criminis supradicti consilium pertinuerunt, spectarunt, vel ad illum villo modo pertinere vel spectare potuerunt, nobis confiscari et ad nos pertinere, et pro perpetuo nobiscum in proprietate remanere: Intimando dicto Roberto Logane filio et heredi apparenti dicti quondam Roberti Logane de Restalrig, eiusque tutoribus et curatoribus, si quos habet, omnibusque alijs interesse habentibus vel pretendentibus, quod sine comparnerint sine non, dictis die et loco, cum continuatione dierum, Nos, dictusque Commiffionarius et dictus noster Justiciarius dictique regni nostri Scotie Ordines in prefato nostro Parlamento, justitia mediante, procedemus et procedent. INSUPER summoneatis ad comparandum in dicto Parlamento nostro, dictis die et loco, cum continuatione dierum, coram nobis dictoue nostro Justiciario et Commiffario ac dicti regni nostri Ordinibus, ad perhibendum fidele testimonium in premiffis, sub pena legis: Et vos qui predictas has nostras literas executione mandaueritis, sitis ibidem, portantes vobiscum dictæ summotionis testimonium et ipsos testes. Ad quod faciendum, vobis et vestrum cuilibet, coniunctim et divisim, vicecomitibus nostris in hac parte, nostram plenariam tenore presentium committimus potestatem. Datum sub testimonio nostri Magni Sigilli, apud Edinburg, decimo quinto die mensis Februarij, anno domini millesimo sexcentesimo nono, regnorumque nostrorum annis quadragesimo secundo et sexto.

And immediatlie thairefter, the said Sir Thomas Hammyltoun of Byunie kn^t, aduocat to our fouerane lord, in his hienes uame, for preving of the pointtis of the said summondis and resson and cause of Treassoun and Lesemajestie contenit thairin, Repetit diuerse Missive billis, all writtin and subferyuit be the said vnq^{le} Laird of Restalrig, all the Depositionnes of the witnæsses examinat befor the Lordis of Articlis of befor, and befor the Lordis of Secreit Counsaill, George Sprottis Depositionnes and conviction, and his execution to the death for the samin cause of Treassoun of Gowrie; togidder with diuerse wryttis and vtheris probationis, quhilkis were presentlie producit befor the saidis Estaittis be the said Lord Aduocat, in our fouerane lordis name, for preving of the foirsaid summondis of treassoun, and resson and cause of lesemajestie contenit thairin: Off the quhilkis Missive billis and Depositionis, producit be the said Aduocat in oure fouerane lordis name, for preving of the said summondis of Treassoun and reassoun thairin contenit, aganis the said Robert Logane and his foirfaidis, the temouris followes.

LETTERS by ROBERT LOGAN OF RESTALRIG to the EARL OF GOWRIE, &c.
relative to the projected CONSPIRACY against THE KING.

[AS HAS formerly been remarked, the ORIGINAL LETTERS of THE LAIRD OF RESTALRIG, with the Examinations of the Witnesses, have been recently discovered among the Warrants of Parliament, &c. preserved in the General Register House, Edinburgh; and the Editor has been thereby enabled to give a faithful transcript of these interesting documents. At the time the Records of Parliament of this period were framed, and for a long time afterwards, it did not seem to be the practice, or to be

June, 1609. considered of any consequence, even in such important cases, to give a *literal transcript*; all that was aimed at, was to give the words employed, generally, without attending, in the slightest degree, to the spelling, &c. So very inaccurately have they hitherto been given in any printed Collection, that they may be said to be now, for the first time, accurately laid before the Public. As an instance of this total disregard of *minutiæ*, not *one* of the characteristics of Logan's handwriting have been attended to, even in engrossing the Letters in the Records of Parliament; although they are there so scrupulously examined and detailed by the Witnesses. So extremely dissimilar are they also in other particulars, that they must have been merely read over or dictated to the transcriber, one of the under Clerks of Parliament, who probably had been unable to decipher any part of these remarkable Letters, which are written in a very difficult hand. In consequence of their great importance, a Fac-simile of a portion of Logan's Letters has been given; and a Plate accompanies this Part.]

(1.) LETTER, *Robert Logan of Restalrig* to . . .

RY^T HONORABIL SIR,

MY dewty with servise remembred. Pleise yow onderstand, my Lo. of Gowry and some vtheris his Lo. frendis and veill villeris, qha tendaris his Lo. better preferment, ar vpoun the resolucion ye knaw, for þe revange of that cawse; and his Lo. hes vrettin to me anent þat purpoße, qhairto I vill accorde, in case ye vill stand to and beir a pairt: And befoir ye resolve, meet me and M. A. R.¹ in the Cannogat on Tyfday the nixt owk, and be alle var as ye kan. Indeid M. A. R. spak vith me fowr or fywe dayis syn, and I hew promised his Lo. ane answar vithin ten dayis at farrest. As for the purpoße, how M. A. R. and I hes fett down the cowrse, it vill be ane very esy done twrne, and nocht far by that forme, vith the lyke stratagem, qhair of ve had conferens in Cap. h.² Bot in case ye and M. A. R. forgader,³ becawse he is someqhat confety, for Godis faik be very var vith his raklese toyis⁴ of Padoa; ffor he tald me ane of the strangest taillis of ane nobill man of Padoa that ever I hard in my lyf, resembling þe lyk purpoße. I pray yow, Sir, think na thing althocht this berare onderstand of it, for he is the special secretaire of my lyf; His name is Lard Bower, and vas auld Manderstonis man for deid & lyf, and evin sa now for me. And for my awin part, he fall knaw of all that I do in this varld, salang as ve leif togidder, for I mak him my howsehald man: He is veill vorthy of credit, and recommend him to yow. Alvyse to the purpoße, I think best for ovr plat that ve meet all at my howse of Fastcastell; ffor I hew concludit v^t M. A. R. how I think it fall be meitteft to be convoyit quyeteft in ane bote, be sey;⁵ at qhilk

¹ Mr Alexander Ruthven. It has been deemed proper to print these Letters, most scrupulously, according to the Originals. ² The Record of Parliament reads this 'B^{is} h.' ³ Meet together.

⁴ In Parl. Rec. 'to this,' by an absurd blunder of the Clerk of Parliament. ⁵ It is obvious, that it would have been the height of insanity in the brothers and their accomplices to have murdered King James; at all events, to have done it in Gowrie House. Mr Alexander Ruthven merely intimated to the King that he was his prisoner;—and subsequently, when he desired him to permit his hands to be bound, it was probably for the purpose of dragging him down to the river side, after being muffled up; and then to convey him to the boat which they appear to have provided, where he would be bound, until they could set sail for Fastcastle, on the departure of the King's attendants. The subsequent struggle, and fatal termination of their enterprise, had never been contemplated; for they certainly reckoned on the unshaken fidelity of Andrew Henderson.

tyme vpon fwre adwartiment I fall hew the place very quyett and veill provy- June, 1609.
dit : And as I receve yowr answér I vill post this berair to my Lo. And ther-
foir I pray yow, as ye luf yowr awin lyf, becawse it is nocht ane matter of mowife,¹
be circumspect in all thingis, and tak na feir bot all fall be veill. I hew na vill
that ather my brother² or yet M. W. R.³ my Lo. auld pedagog knaw ony thing
of the matter, qhill all be done that ve vald hew done; and than, I cair nocht
qha get vit, that lufis vs. Qhen ye hew red, fend this my letter bak agane vith
pe berar, that I may se it brunt my self, for sa is the fasson in sik erandis; and
if ye please, vryt yowr answér on the bak herof, in case ye vill tak my vord for
the credit of the berair: And vse all expedicioun, for the twrne vald nocht be
lang delayit. Ye knaw the kingis hwnting vill be schortly, and than fall be
best tyme, as M. A. R. hes affwred me, that my Lo. hes resolved to interpryse
pat matter. Lwkinge for yowr answér, committis yow to Chryftis haly protec-
tioun. Frome Fastcastell, the awchten day of Julij, 1600.

(Sic subscribitur) Youris to vtter power redy. RESTALRIGE.

(2.) LETTER, *Robert Logan of Restalrig to Laird Bower.*

LARD BOWER,

I PRAY yow haste yow vast to me abowt the erand I tauld yow, and ve
fall confer at lenth of all thingis. I hew recevit ane new Letter fra my Lo(rd)
of Go(wrie,) concerning the purpose p^t M. A. his Lo. brothir spak to me befoir,
and I perfeif I may hew avantage of Dirlton, in case his other matter tak effect,
as ve hope it fall. Alwayse I besek yow be at me the mornie at evin, for I hew
affwred his lo. servand, p^t I fall fend yow over the vatter vithin thre dayis, vith
ane full resolucion of all my vill, anent all purposes: As I fall indeid recommend
yow and yowr trustiness till his lo. as ye fall find an honest recompense for yowr
panse in the end. I cair nocht for all the land I hew in this kingdome, in case I
get a grip of Dirleton,⁴ for I esteeme it the pleasantest dwelling in Scotland. For
Goddis cawse, keip all thingis very secret, that my lo. my brothir get na know-
lege of ovr purposes, for I (wald?) rather be eirdit quik.⁵ And swa lwking for
yow, I rest till meitting. Fra the Kannogait, the xvij day of July.

(Sic subscribitur) Yowris to power redy. RESTALRIGE.

I am verie ill at ease and thairfoir speid yow hither.

¹ Sport. It is no mummary or child's play. ² See Note to Letter (5.) ³ Mr William Rhynd.

⁴ The estate of Dirleton, in the county of East Lothian, was a very valuable barony, which the family of Gowrie acquired by the marriage of William, second Lord Ruthven, to Janet, eldest of the three heiresses of Patrick Lord Halyburtoun and Dirletoun. Their son Patrick (the chief instrument in the murder of Rizzio) was styled 'Lord Ruthven and Dirletoun;' which title continued, till the extinction of the family. Restalrig seems to have been promised this barony, as a bribe or reward for his participation in the Conspiracy; and he dwells on the idea with evident delight. ⁵ Buried alive.

June, 1609.

(3.) LETTER, *Robert Logan of Restalrig to . . .*

RYT HONORABLE SIR,

ALL my hartly dewty v^t humbill servise remembred. Sen I hew takin on hand to interpryse v^t my lo(rd) of Go(wrie) yowr speciall and only best beloved, as ve hew set down the platt alre dy, I vill request yow that ye vill be very circumsppek and vyse, p^t na man may get ane advantage of vs. I dowl notcht bot ye knaw the perell to be bayth lyf, land and honowr, incase the mater be nocht vyllie vsed : And for my avin part, I fall hew ane speciall respek to my promise p^t I hew maid till his lo. and M. A. his lo(rdschipis) brother, althocht the skafald ver set vp. If I kan nocht vin to Fakland pe first nycht, I fall be tymelie in S^t Johnestoun on the morne. Inde id I lipnit for my lo(rd) him self or ellise M. A. his lo. brother at my howse of Fast(castell), as I vret to thame bayth. Alwyse I repose on yowr advertisment of the precyse day, v^t credit to the berar ; for howbeit he be bot ane filly ald gleyd¹ carle, I vill answer for him p^t he fall be very trew. I pray yow, sir, reid and ather bwrne or send agane v^t the berare ; for I dar hafard my lyf and all I hew ellise in the varld on his message, I hew sik pruif of his constant trewth. Sa committis yow to Chryftis holy protection. Frome the Kannogait, the xxvij day of July, 1600.

(Sic subferibitur) Yowris till all power v^t humbill servise redy.

RESTALRIGE.

I vse nocht to wrytt on the bak of ony of my letteris concerning this erand.

(4.) LETTER, *Robert Logan of Restalrig to the Earl of Gowrie.*

MY LO.

MY maist humbill dewty v^t servise in maist hartlie maner remembred. At pe resset of yowr lo(rdschipis) Letter I am so comforted, especially at yowr lo. purpose, communicated onto me thairin, that I kan nather vtter my joy nor find my self habill how to encounter yowr lo. v^t dew thankis. Inde id my lo. at my being last in the town, M. A. yowr lo. brother imperted somqhat of yowr lo(rdschipis) intencioun anent p^t mater onto me ; and if I had nocht bein busyed abowt sum turnis of my avin, I thought till hew cummit over to S. Jo.² and spokin v^t yowr lo(rdschip.) Yit alwayse my lo., I beseik yowr lo., bayth for pe saiftie of yowr honowr, credit, and mair nor that, yowr lyf, my lyf, and the lyfis of mony vtheris qha may perhapis innocently smart for p^t turne estirwartis, incase it be reveilled be ony ; and lykwayse, the vtter vraking of ovr landis and howfis, and extirpating of ovr names, lwke that ve be all alsé svre as yowr lo. and I my self fall be for my avin part, and than I dowl notcht, bot v^t Godis g(race,) we fall bring our matter till ane fine, qhilk fall bring contentment to vs all that ever vissed for

¹ Squinting.² Saint Johnston (Perth.)

þe revenge of the Maschevalent¹ maffakering of owr deireft frendis. I dowl nocht June, 1609. bot M. A. yowr lo. brother hes informed yowr lo. quhat cowrse I layid down, to bring all yowr lo(rdschipis) affociatis to my howse of Fa(steastell,) þe fey, qhair I fuld hew all materiallis in reddynefs for thair faif recayving a land, and into my howse; making as it ver bot a maner of passing time,² in ane bote on þe fey, in this fair somer tyde; and nane other strangeris to hant my howse, qhill ve had concluded on the laying of owr platt, quhilk is alredy devyfed be M. A. and me. And I vald vifs that yowr lo. wald ather come or send M. A. to me, and thereftir I fowld meit yowr lo. in Leith, or quyetly in Restal(rig) qhair ve fowld hew prepared ane fyne hattit kit,³ v^t succar, comfeditis and vyn; and thereftir confer on matteris. And the soner ve broght owr purpose to pass it ver the better, before harwest. Let no^t M. W. R. yowr awld pedagog ken of yowr comming, bot rather vald I, if I durst be sa bald, to intreit yowr lo. anis to come and se my avin howse, qhair I hew keipit my lo(rd) Bo(thwell) in his gretest extremityis, say the K(ing) and his Counfall qhat they vald. And incaise God grant vs ane happy swceefs in this erand, I hope bayth to haif yowr lo. and his lo., v^t mony otheris of yowr loveris and his, at ane gude dyner, before I dy. Alvyse I hope that the K(ingis) bwk-hunting at Falkland, this yeir, fall prepar fum daynty cheir for ws, aganis that denner the nixt yeir.⁴ *Hoc jocosè*, till animat yowr lo. at this tyme; bot eftirvartis, ve fall hew bettir occasion to mak mery. I protest, my lo. before God, I vifs nathing v^t a bettir hart, nor to atchive to that qhilk yowr lo. vald fane atteyn onto; and my continewall prayer fall tend to that effect; and v^t the large spending of my landis, gudis, yea the haserd of my lyf, fall nocht afray me fra that, althocht the skaffald ver alredy sett vp, before I fowld falsify my promise to yowr lo. and perswade yowr lo(rdschip) therof. I trow yowr lo. hes ane pruiße of my constancy alredy or now. Bot my lo. qharas yowr lo. desyris, in yowr letter, þ^t I craif my lo. my brotheris mynd anent þis mater, I alvterly disfasent fra that, þ he fowld ever be ane counsalowr therto; for in gude fayth, he vill newir help his frend nor harme his fo. Yowr lo. may confyde mair in this ald man, the beirer heiroy, my man La(ird) Bowr, nor in my brother; for I lippin my lyf and all I hew else in his handis; and I trow he vald nocht spair to ryde to Hellis-yet to plesowr me; and he is nocht begylit of my pairt to him. Alvyse, my lo. qhan yowr lo. hes red my Letter, delyver it to the berare agane,

¹ Machiavelian, after the cruel policy of Machiavel; alluding to the beheading of William Earl of Gowrie, May 28, 1584. ² Feigning pastime, or a pleasure sail. ³ Coagulated milk; prepared, by milking from the cow upon butter milk, kept till it is pretty sour, so sharply, as to form a sort of froth. The mess is made in a particular kind of wooden *bicker* or *kitt*, having a *pin* or plug near the bottom, by which the *whig* or whey is allowed to escape, after having stood for several hours. It is also called '*sour cogue*,' and '*Corstorphine cream*;' and, if properly made, is a very palatable dish, eaten with sugar and cream; though some prefer it in its sour state, for when fresh, it has a very agreeable acidity. ⁴ At the anniversary dinner, in commemoration of their enterprise.

June, 1609. that I may se it brunt v^t my awin ein ; as I hew sent yowr lo. Letter to yowr lo. agane ; for so is the fassone I grant. And I pray yowr lo. rest fully perswaded of me and all that I hew promesed ; for I am resolved, howbeit I ver to dy the morne. I man intreit yowr lo. to expedie Bowr, and gif him strait directioun, one payn of his lyf, that he tak never ane vink fleip, quhill he se me agane ; or ellise he vill vtterly vndo vs. I hew alreedy sent ane other Letter to the gentill man yowr lo. kennis, as he berare vill informe yowr lo. of his answer and fordvardnes v^t yowr lo. ; and I fall schaw yowr lo. forder, at meting, qhen and qhair yowr lo. fall think meittest. To quhilk tyme and ever committis yowr lo. to the proteccioun of the Almychtie God. From Gunisgrene,¹ the twenty nynt of Julij, 1600.

(Sic subscribitur) Yowr lo. awin sworne and bund man to obey and serve v^t efauld² and ever redy seruise to his vttir power till his lysis end.

RESTALRIGE.

PRAYIS yowr lo. hald me excused for my vnsemly Letter, quhilk is nocht sa veil vrettin as mifter³ ver ; ffor I durst nocht let ony of my vryteris ken of it, bot take twa fyndry ydill dayis to it my self.

I vill never forgett the gude sporte that M. A. yowr lo. brother tald me of ane nobill man of Padoa, it comis sa oft to my memory. And indeid it is a parastevr⁴ to this purpose ve hew in hand.

(5.) LETTER, *Robert Logan of Resialrig* to

RY^T HONORABIL SIR,

MY hartly dewty remembred. Ye knaw I tald yow at ovr last meitting in the Cannogat that M. A. R. my lo. of Go(wries) brother had spokin v^t me, anent þ^e matter of ovr conelusion ; and for my awin part I fall nocht be hindmest : And senfyne I gat ane Letter frome his lo. selff, for þ^t fame purpose ; and upon the ressait therof, onderstanding his lo. franknes and fordvardnes in it, God kennis if my hart vas nocht listit ten stegefs ! I postit this fame berare till his lo. to qhome ye may concredit all your hart in þ^t alsvell as I ; for and it ver my very sowll, I durst mak him messinger therof, I hew sic experienſe of his trewth, in mony other thingis : He is ane silly ald gleyd carle, bot vonder honest : And as he hes reportit to me his lo. awin answer, I think all matteris fall be concludet at my howſe of Fa(steastell) ; for I and M. A. R. concludet that ye sowld come v^t him and his lo. and only ane other man v^t yow, being bot only fowr in company, intill ane of the gret fisching botis, be sey, to my howſe, qher ye fall land aſe faiffly as on Leyth schoir ; and the howſe agane his lo. cumming to be quyet : And qhen ye ar aboutt half a myll fra schoir, as it ver passing by

¹ A residence of Logan's.
as it ought to have been.

² Sincere, hearty ; literally, *one fold*.
⁴ Apropos, in point.

³ Need, *q. d.* so well

the howse, to gar set furth ane vaff.¹ Bott for Godis sek, let nether ony knowlege June, 1609. come to my lo. my brotheris eiris,² nor yit to M. W. R. my lo. auld pedagog ; for my brother is kittill to scho behind,³ and dar nocht interpryse, for feir ; and the other vill diffwade vs fra ovr purpose v^t ressones of Religion, quhilk I can newer abyde. I think thair is nane of a nobill hart, or caryis ane stomak vorth a penné, bot they vald be glad to fie ane contented revange of Gray Steillis deid ;⁴ And the soner the better, or ellse ve may be marrit and frustrat ; and therfor, pray his lo(rdship) be qwik, and bid M. A. remember on the sport he tald me of Padoa ; for I think v^t my self that the cogitacion on þ^t fowld stimulat his lo(rdship). And for Godis cawse vse all your cowrses *cum discrecione*. Fell nocht, fir, to fend bak agane this Letter ; for M. A. leirit me þ^t fasson, that I may se it destroyed myself. Sa till yowr cumming, and ever, committis yow hartely to Christis holy protection. From Gunnisgrene, þe last of July, 1600.⁵

(6.) THE DEPOSITIONS of the *Witnesses producti*.⁶

(i.) M^R ALEXANDER WATSONE, Minister at Coldinghame, of the aige of l. (fyftie) 3eiris, mareit, deponis, the fyve Missiue Letteris subscryvit be the Lard of Restelrig, and producit in proces be þe lord Aduocat, for preving of the ressonne of Treffoune persewit aganis Robert Logane, sone and apperand air to Robert Logane of Restelrig, being schawu to this deponar ; and he haveing at lenth sichtit and considerit the samin, Deponis, that he takis vpoun his conscience, that he verelie belewis that the saidis fyve Missiues, and euerie ane of pame, ar werralie and trewlie writtin be þe said vmqle Robert Logane of Restelrig, with his awin hand : And gissis this resson of his knowlege ; that nocht onlie he thinkis that the carecter of euerie letter pairof resemblis perfytlie the said vmq^{le} Robertis hand wryit, euerie way ; bot also aggreis with his fassoun of spelling, quhilk he

¹ A 'vaff,' or signal. ² ALEXANDER (fifth) LORD HOME married Agnes, sister of Patrick (sixth) Lord Gray, and widow of Sir Robert Logan of Restalrig. By her, (who afterwards became the wife of Sir Thomas Lyon of Auldbar, Lord High Treasurer of Scotland,) he had one son, Alexander, who became sixth Lord Home, on his father's death, Aug. 11, 1575. This Lord, then, was 'brother' to Logan of Restalrig, writer of this Letter, being the son of Logan's mother ; and it seems most probable that he is the person here meant. He was created Earl of Home and Lord Dunglass, Mar. 4, 1604. See *Douglas's Peerage*, vol. i. p. 736 ; *Crawford's Peerage of Scotland*, p. 222 ; Thomas Crawford's *Notes on Buchanan's History* ; also *Nisbet's Heraldry*, p. 151, quoted there. Sir Henry Nevill to Sir R. Cecyll, 29th Nov. 1599. 'The Lord Hume also, since his coming hither, goeth openly to Mafs.'—*Winwood's Memorials*, vol. i. p. 134. See also p. 156. He was employed on a secret Embassy to Rome in 1599.

³ Cannot be trusted ; an allusion to the hazard of shoeing a treacherous or ill-broken horse, in the hind feet.

⁴ To be revenged for the death of his father, William Earl of Gowrie, who was beheaded May 28, 1581, for his treasonable part in the Raid of Ruthven. He was known, among his contemporaries, by the chivalrous *soubriquet* 'Greyfeill,' a hero of popular romance.

⁵ The signature has been purposely torn off. This had been done, probably by Restalrig or by Laird Bower, at all events previously to the production of the Letter in evidence ; as appears by the following memorandum, in the Books of Parliament : 'The subscription is ryvin fra this last Letter.'

⁶ 'APUD ED^B, xx Junij 1609. WITNESSES producti be the Aduocat aganis Robert Logane, sone to the Lard of Restelrige, for cognosching of the Lard of Restelrigis hand wryit and subscription of þe flywe Missiue Billis producti, all wryttin and subscryuit be Restelrige.'

June, 1609. hes particularlie remarkit, in euerie ane of the saidis Missiue Letteris, in thir pointis following: first, that he newir vseit to wrytt ane ‘z’ in the begyming of ony word, sik as ‘zow,’ ‘zouris,’ ‘zeild,’ ‘zea,’ and siclyk; bot ewir wrait ‘y’ in steid of the said ‘z.’ That he wrait all wordis begynning with ‘w’ with ane singill ‘v,’ and quhan that letter ‘v’ fell to be in the myddis or end of ane word, he wrait ane doubill ‘w.’ That quhen he wrait ‘quhen,’ ‘quhair,’ ‘qlk,’ or ony sik word, quhilk vris to be writtin and spellit be vtheris with ‘quh,’ he wrait onlie ‘qh,’ ‘qhen,’ ‘qhair,’ and siclyk: Quhaneuir ane word began with ‘con,’ he newir wrytt ‘con’ at lenth, bot with ane ‘o.’ Quhan euir ‘t’ fell to be in the end of ane word, he wrait it without ane straik throw the ‘t;’ and did be lyk quhan ewir ‘t’ fell in ony pairt of ane word: And, for forther confirmatioune of the premisses, he producit thrie Letteris, writtin euerie word, and subscryvit be the said vmq^{le} Robert Logane of Restelrig; and comparing same with the fyve vther Missiues producit be the Aduocat, shew euidentlie be direct conformitie of the samin, alsweill in the character and trew resemblance of the handwrait, as in the spelling and wryting of euerie wrytt, sillap, and letter: according to the particularis aboue specifeit.

(Sic subscribitur) M^R ALEX^R WATSONE.

(ii.) M ALEXANDER SMYTHE, Minister at Chyrnefyde, of the aige of xxx zeiris or thairby, mareit, deponis, that he wes weill acquentit with the vmq^{le} Lard of Restelrig, be resoun he vas petagog to his barnis; and hes sene werray mony of his handwrittis: And haveing sene, red, and at lenth considerit the fyve Missiue Lettres, producit be the Aduocat, and inquirit ‘gif he knew the samin to be the Lard of Restelrigis proper hand wryt?’ Declairis, vpoun his great aythe, That he certanlie belewis the saidis fyve Letteris, and euerie word thairof, to be the Lard of Restelrigis proper hand wryt; becaus he findis the carrectar pairof to aggrie, euerie vay, with the chap¹ of his ordiner wryting; and remarkit, werray particularlie, the maner of Restelrigis spelling of mony wordis, vtherwayes nor vther men vres commounlie to wryt and spell; according to the haill particularis remarkit ofbefoir be M^r Alex^r Watfoun, be witnes immediatlie preceding: And in these pointis, and all vtheris, is conforme to the said M^r Alex^r Watfounis Depositionne, in all thingis: *Reddens caussum scientie*, becaus he wes perfyttie acquentit with the Lard of Restelrigis hand wryt, in his lyfetyne, and wes petagog to his barnis mony zeiris, and in his companie.

(Sic subscribitur) M^R ALEX^R SMYTH.

(iii.) SIR JOHNNE ARNOTT, Provest of Edinburcht, of the aige of lxx zeiris, or pairby, mareit, deponis, that he wes weill acquentit with Robert Logane of Restelrig, and with his hand wryt; becaus he had ressanit diuerse of his Lettres him self, and sene mony vtheris lettres writtin be him: And the fyve Missiues producit be the Aduocat, being shawin to him, and he haveing sene and

¹ Shape, structure.

confiderit þe famin, rememberit that he had fene, red and perfittlie confiderit the June, 1609. famin of befoir; and efter gnd advyſment, is reſoluit, that the ſaidis fyve Letteris ar als certantlie the Lard of Reſtelrigis hand wryit, as the Letteris writtin be the deponar, at ony time, ar his awin hand wryit: And ſua takis on his conſcience, that the foirſaidis fyve Miſſive billis, producit be þe Aduocat, ar the proper hand wryit and ſubſcriptionn of the ſaid vmq^{le} Lard of Reſtelrig, be his jugement: And for verificacionn thair of, hes producit four writtis, all writtin be the ſaid vmq^{le} Lard of Reſtelrig, and ſend to this deponar, and to Archibald Johnſtonne; aggreand perfytlie, in ſpelling and carrecter, with the ſaidis Miſſives.

(Sic ſubſcribitur) S. J. ARNOTE.

(iv.) ALEXANDER CUIK, ſcheref clerk of Bervik, of the age of l (ſyftie) 3eiris or þairby, maryit, deponis, that he wes weill aquentit with the vmq^{le} Lard off Reſtelrig, and hes fene mony and ſindrie of his writtis, and reſſaut diuerſe of his Lettris, direct to him ſelf: And being deſyrit to ſie and confidder the fyve Letters producit be the Aduocat, and to declair quhidder he knew and eſtemit the famin to be all writtin be vmq^{le} the Lard of Reſtelrig; deponis vpon his conſcience, that he belewes and eſtemis the ſaidis hail Lettres to be all writtin be the Lard of Reſtelrig; *reddens cauſſam ſcientie*, becaus nocht onlie the carrecter aggreis euerie vay with the chap of Reſtelrigis hand wryit, bot alſo the ſpelling, in mony particularis, quhairin Reſtelrig differrit frome vþer menis forme of wryting; and in the particularis thair of, deponis conformis to the twa firſt witneſſes, the Miniſteris of Coldinghame and Chyrneſyde, *reddens eandem cauſſam ſcientie*.

(Sic ſubſcribitur) ALEX^R CUIK.

(v.) WILLIAME HOME in Aytoun-Mylne, of the aige of xxxij 3eiris or þairby, maryit, deponis that all the fyve Miſſiuis abonevrittin, being ſhawin to this deponar, and haveing at lenth confiderit euerie ane of thame, takis vpoun his conſcience, that, to his knowlege, that the ſaidis fyve Miſſive Lettres ar all writtin and ſubſcryvit be the vmq^{le} Lard of Reſtelrig; for þe ſpeciall reſſonis contenit in the Depoſitionis maid be M^r Alex^r Watſoun, M^r Alex^r Smyth, Miniſteris, and Alex^r Cuik, ſcheref clerk of Bervik; to quhome he is conforme in all thingis, *reddens eandem cauſſam ſcientie*.

(Sic ſubſcribitur) WILLIAME HOME.

(vi.) JOHNNE HORNE, notar in Aymouth, of the aige of xlij 3eiris or þairby, ſolutus, deponis, the foirſaidis fyve Miſſive billis, being at lenth ſichtit and confiderit be this deponar; declairis vpoun his conſcience, to his knowlege, all the ſaidis fyve Miſſives ar the Lard of Reſtelrigis proper hand wryttis and ſubſcriptionn; for the reſſones abone vritten, in the depoſitionn of Williame Home, *reddens eandem cauſſam ſcientie*.

(Sic ſubſcribitur) J. HORNE.

(vii.) M^R WILLIAM HOG Miniſter at Aytoun, of the aige of xxx 3eiris or þairby, mareit, deponis, that he knew weill the Lard of Reſtelrig, and hes ſome

June, 1609. of his writtis ; and producit ane Letter, writtin be Restelrig to the Lard of Aytoun, all writtin with Restelrigis awin hand wryit : And haveing considerit the fyve writtis producit be the aduocat, declaris, that he thinkis þame lyklye to his wryittis, and þat the samin appeiris to be verie lyk his wryitte, be the conformitie of letteris and spelling. Sic subscribitur) M^r W^m Hogg.

AL. CANCELLS.

[GEORGE SPROTT'S CONFESSION follow here. See p. 260.]

The quhilkis Missive Billis, and haill Depositionnes abone writtin, and vtheris wryttis¹ and probatiounes producit now presentlie be the said lord aduocat, he repetit, for preving of the said Summondis of Treassoun and cause pairin contentit ; and renuncit forder probatioun : And thairvpoun the said Aduocat askit Instrumentis. And lykwayes the said lord Aduocat producit, in presens of the said Commissionar and haill Estaittis of Parliament, oure souerane lordis Lettres of Relaxatioun, berand the said Robert Logane eldest sone to the said Robert Logane sumtyme of Restalrig, to be relaxit be Robert Logane messinger, fra the proces of all Horningis, at the marcat croces of Hadington, Dunse and Grenelaw, vpoun the sevint and aucht dayes of Aprile respectiue 1609 3eiris ; and at the marcatt croce of Edinburgh, be Johne Moncur messinger, vpoun the ellevint day of Aprile, the yeir of God foirsaid ; as at mair lenth is contentit in the saidis Lettres of Relaxatioun, of the date the sext day of Marche last bipast, and registrat in the Clerk of Registeris buik, the ellevint day of Aprile 1609 yeiris : Vpoun the production of the quhilkes Lettres of Relaxatioun, the said Aduocat lykwayes askit instrumentis : And desyrit the haill Estaittis to consider of the saidis probationes producit and repetit be him, and to advise the said proces of Foirfaltour, and to gif furth thair decreitt thairintill, according thairto.

And siclyk, the said Sir Thomas Hamnyltoun of Bynnzie kny^t his heines Aduocat, eftir that he had repetit and producit all his probationis to the saidis haill Estaittis, quhilkis he wald vse for preving of the pointis of the said summondis, and ressones and causes thairin contentit, he reproducit the said summondis of Treassoun befor the saidis haill Estaittis, raisit and persewit at the instance of oure said souerane lord and his heines Aduocatt aganis the said Robert Logane and his tutouris and Curatouris, and all vtheris haveand or pretendand to haue interes, quhairby they wer summonit to compeir befor oure souerane lord and his Estaittis of Parliament at ane certane day bigane, with continewatioun of dayes, to haue hard and sene it be fundin, that the said v^mq^{le} Robert Logane of Restalrig committit Treassoun and Lesemajestie, in his lyfetye ; and to heir and sie his fame, name and posteritie abolishit ; and to haue ansuerit to the haill pointis and crymes of Treassoun and Lesemajestie contentit in the said summondis.

¹ The foregoing Deposition and Confession of George Sprott is engrossed in the Record, immediately after the testimony of the Witnesses, who proved Logan's handwriting. See No. X. (3.)

The quhilk Summondis, with the executionis and indorfatiounis thairof, being June, 1609. this instant day red, in prefens of his Maiesteis Commiffionar and Eftaittis of Parliament, firft in Latine and thaireftir in Scottis; the faid Robert Logane, being oftymes callit of new at the tolbut window of the faid bur^t of Edinbur^t, to haue comperit and anfwerit to the faid fummondis of Treaffoun and reffones and cauffes thairin contenit; and he nocht comperand to haue defendit in the faid matter, and to haue anfwerit to the faid fummondis, the faid Sir Thomas Hammyltoun of Bynnie kny^t aduocat to oure fonerane lord, defyrit the faidis Eftaittis declaratioun, gif the reffones of the faid fummondis wer relevant: The quhilkis Eftaittis ffind the faid fummondis, and reffone and caufe thairin contenit relevant, &c. And thaireftir, the haill Depofitiounes of the Witneffes, Miffive billis, and haill wryttis and probatiounis, being red, fene and confiderit be the foirfaidis haill Eftaittis of Parliament, and they thairwith being ryplie advyfit, the faid Lord Commiffionar and Eftaittis of Parliament ffindis, decernis and declairis, that the faid vmq^{le} Robert Logane of Reftalrig committit and did, in his lyfetye, oppin and manifefte Treaffoun, in all the pointis, artielis and maner, contenit in the faid fummondis: And thairfor, it wes gevin for Dome, be the mouth of David Lyndefay dempfter of Parliament, in maner and forme as followes.

DOME OF FORFEITURE. This Courte of Parliament fchawis for law, that the faid vmq^{le} Robert Logane of Reftalrig; in his lyfetye, committit the foirfaid cryme of Treffoun and Lefemajeftie; and that he wes airt and pairt, giltie and pairtaker thairof, aganis oure faid fouerane lord and his autoritie royall; and that the foirfaidis cruell, wicked and treaffounable crymes were interpryfit be his caufing, perfuafioun, counfaill and help; lykas, the faid vmq^{le} Robert Logane of Reftalrig treaffounable conceillit the foirfaid cryme of Lefemajeftie, to his death, and in his death; in all maner at lenth contenit in the faid fummondis: And thairfoir, Decernis and Declairis the name, memory and dignitie of the faid vmq^{le} Robert Logane of Reftalrig to be extinct and abolifheit, and his armes cancellat, rivine and deleitt furth of the buikis of Armes and nobilitie; fua that his pofteritie fall be excludit, and be vnhabie to poffes or inioy ony offices, honouris, digniteis, landis, tenementis, rowmes, rentis, poffeffionis or gudis moveable or vnmovable, richtis and vtheris quhatfumeuir within this kingdome, in all tyme cumming: And that all the faidis gudis, landis, rowmes, tenementis and vtheris gudis, moveable and vnmovable, richtis and vtheris quhatfumeuir, pertening to the faid vmq^{le} Robert Logane of Reftalrig, or quhilkis nicht onyways haue pertenit to him at ony tyme, fen his Confpyring of the faidis treaffounable crymes, to be efcheat and foirfaltit to our faid fouerane lord, to appertene and to remane perpetualie with his Majeftie in propirtie. And this I gif for dome.

Feb. 1609. (7.) WARRANT to the Aduocat, to libell a Summondis of Foirfaytour aganis the airis of RESTALRIG.¹

Feb. 14. 1609.—THE Lordis of Secrite Counsale, ordainis and commandis Schir Thomas Hamilton of Bynnie kn^t his Maiesties Aduocat to libell ane Summondis for florfeiting of the memorie of vmquhill ROBERT LOGANE of Restalrig, for airt and pairt of GOWRYIS TREASOUN, to be perfewit in this approching Parliament: And that the said Lord Aduocat insist in the persute of the said summondis, at the Parliament, as becometh him of his dewtie and office. Qubairnent the extract of thir presentis salbe vnto him a warrant.

(8.) LETTER, Sir THOMAS HAMILTON of Binnie kn^t, Lord Advocate, (afterwards Earl of Haddington,) to KING JAMES VI. containing an interesting Account of RESTALRIG'S FORFEITURE.²

PLEIS YOUR MOST SACRED MAIESTIE,

ACKNOULEDGEING my self bund, in dewtie, to rander accompt to your Maiestie of the seruices properlie belonging and committed to my chaarge, I haue tane the bouldnes to wryte of oure progres in the FORFALTOURIS intended aganis the LORD MAXUELL and the Memorie of RESTALRIG, before the Lords of Articlis. Oure first proceeding wes aganis the Lord Maxuell, whairin albeit thair wes no compeirance for the defender, yet sum of the Lordis of Articles kything more scrupulous and precise, in findrie poyntis of that proces, nor (than) we did foresie or suspect; and heiring thairefter, that findrie of that number had preconfaied hard opinions of Restalrig's proces, the knoulege thair of, whilk wroght feir and mistrust in the myndes of dyuers your Maties weil affected seruandis, did breid in the Erle of Dunbar suche caire and seruencie to remoue these impedimentis, that bending his wittis, in more passionat maner nor he visis to expres in common and indifferent maters, he did trauell so earnestlie with the nobilmen and haill remanent Lordis of Articles, and solicited sum of the most learned and best experimented of your Maties Counfall, to furneis reafons and light, to the cleiring of the probatioun of that most haynous Treasoun; and gaue to my self so earnest chaarge, and furneished so pregnant, judicious and cleir groundis, to confirme the Summondis, and manifest the verie circumstances thair of to the worlde, that he left no travell to me, bot the repetition of the substance of his information. To the whilk, haveing so neirlie conformed my discourse, as possiblie I could, it pleased God, that the Lordis of Articles, being happelie prepared, be the Depositionis of dyuers honest men of the Ministrie, and vther famous Witnessis, who recognosseing vmq^{le} Restalrig's handwrit, in his treffonabill Missiues produced be me, with verie sensibill and forcibill reafons and causis of thair constant and confident affirmation, that these Missiues wer writtin be him: Whan the probaton of the summondis wes referred to the Lordis votes, thay stand vniformallie, all in ane voce, the said summondis to be so cleirlye provin, that thay seemed to contend who sould be abill most zealoullie to expres the satisfaction of his hairt, not onlie be most pithie wourdis, bot be tearis of joy; dyuers of the best rank confessing, that that whairof thay dowted, at thair entrie in the howse, was now so manifest, that thay behoued to esteeme thame Traitours who sould any longer refuse to declare thair assured resolution of the treuth of that Treasoun. Swa, hoping your Maiestie will gracioullie pardoun my boldnes, in offering to your Maiestie this rude relation of their purposes, concerning my chaarge in your Maiesteis seruice, I besseik God, who hes so mercifullie preserved your Matie from the horribill devyffes of your develishe enemies, and so miracouluslie detected thair hellissh practises, long to protect and preserve your Ma-

¹ *Acta, Secreti Concilij.* ² From the original, preserved in the Denmylne Collection of MSS. Adv. Library. The remarkable Case of *John Lord Maxwell*, his escape from the Castle of Edinburgh, his forfeiture and execution, &c. are inserted in this Collection, under the proper dates.

ieftie from all hairmes and dangers, and to grant your Maieftie all happines and contentment. EDIN- June, 1609.
BURGH, this 21 Junij, 1609.

Your moft facred Maiefteis moft bundin and faithfull feruant,

S. TH. HAMILTON.

To the KING's Moft Excellent Maieftie.

(9.) WARRANT from King JAMES VI. to the Lord Clerk Register, to engrofs
LOGAN of RESTALRIG's Letters and SPROTT's DEPOSITIONS, in the Records
of Parliament.¹

JAMES R.

It is o^r pleafor^r, will and expresse command, that in the inferting in the Parliament Register, of the
proces of florfeito^r of the disceafed trayterous LAIRD of RESTALRIG, that you shall, at all length, in-
groffe the Miffiue Letters, and fo muche of SPROTTE his depositions, as doeth concerne that mater :
ffor doing whereof, these presents falbe vnto yow a sufficient Warrant. Giuen at Royfton, the xxth
of Januar, 1610.

To o^r trusty and welbeloued counfello^r S^r Johne Skene of Curryhill,
knight, Clerk of our Register.

No. XVI.

JOHNSTON'S NARRATIVE of the Conspiracy of John Earl of Gowrie, taken from
his contemporary MS. History of Scotland.²

ABOUT the end of Februar 1600, WILLIAME (JOHNE) ERLL OF GOWRIE³ com out of France,
throw England, and com till Edinburcht, accompanyit with his brother S^r Alexander Ruthven, with
ane great number of nobilmen, gentilmen and wtheris ; and ludgit in the heid of Foster's wynd :⁴ And
in the moneth of Junij nixt thaireftir, as he was going from his lugin to the Kingis Ma^{tie} in the Abay
of Holirudhous, accompanyit with 7 or 8 of his houshald seruandis ; and as he was going throw the
lang galrey of the Abbay, Coronell Stewart,⁵ (of quhom we maid mention at the taking of wmq^u Wil-
liame Erll of Gowrie at Dundie,) cuming furth from the King, and the said Erll perfaving him cuming
from the Kingis chalmer dure, being at the far end of the galrie, (leift sum tumult fould haue happned
be schouldering sum of thame or thair fervandis) the said Erll begane to go asyd⁶ till (he) lat the said
Coronell pas by him : Bot the same being espyed by ane of the said Erllis fervandis, going in the rank
befoir him, callit Mr Thomas Kinroscher, (he) said ardentlie till him, ' Quhat ! My Lord, ar 5e going
back for ony man heir ? Com fordward, my Lord, bauldlie ! ' Quhilk going asyd first, and than cuming
fordward agane, being sene by Coronell Stewart, he went in agane to the King,⁷ ' Schir, it will pleis
3our Ma^{tie} heir ane strang mater, that for guid service done to 3our grace I fald be so evill rewairdit
as I am ! Heir comes in the Erll of Gowry, and I sic he myndis till begin first at me ; but be war of
the best of 3ow all ! ' Heirwith the said Erll enterit in his Ma^{ties} chalmer, and the Coronell went out
thairof. Bot thair was nothing of that purpois spokin betuixt his Ma^{tie} and the Erll that tyme. Bot
the Coronellis wordis to the King, being repointid to the Erll, he anfuierid, '*Aquila non captat muscas !*'

¹ From Original, among the warrants of Parliament preserved in the General Register House, Edinburgh.

² This MS. is preserved in the Library of the Faculty of Advocates, Edinburgh, JAC. V. 2. 2. Fol. 633, b.

³ There is a running margin preserved, which shall be marked at the foot of the page. ' The Erll of Gowrie comes out of France.'

⁴ Forrester's Wind, near the site of the present County Hall and the Libraries.

⁵ ' The Erll of Gowrie and Coronell Stewart, in the galry of the Abay.'

⁶ Avoided him, by giving place and stepping aside.

⁷ ' Coronell Stewart his speitches to the King.'

Aug. 1600. In the beginning of August, the King being at hunting, betuixt Falkland and Pearth, (as eftirward was repoitrid be his Ma^{tie} and his followeris,) the Erll of Gowry and his brother, haveing still caryed ane deidlie haitred and ane abhominabill rancour at the King, becaus of thair fatheris executioun, as forsaide, interpryfit ane most pernicious and damnable Conspiracie aganis his Ma^{tie} in thair ludging, in Pearth. So that wpone Tyfsday, being the 5 day of August, the same 3eir, 1600,¹ (notwithstanding of his Ma^{ties} manifold kyndnesses, quhilk he had schawin to theise tuo brethren, and especially in reftoiring to pame thair fatheris haill patremony, landis, rentis and honouris, being foirfaltit, and be public Act of Parliament brocht into the Croune,) the said Erll and his brother, haveing resolved to put thair wicked Treafone to executioun, thocht thay could find no better occasioun than presentit at that tyme; and thairfoir, thay wald assay quhat could thay do. So to bring the same to pas, Sir Alexander Ruthven, Maister of Gowry, spyng his tyme convenient,² wpone the foirsaide day, the King being in Falkland, and cuming furth at that Palace at 7 houris in the morneing, till go to the hunting, (accompanyid with verrie fewe in number, except onlie Lodouik Duik of Lennox, quho had maryit Maistres Jean Ruthven, sister to the said Erll of Gowry, and Johnne Erll of Marr, brother-in-lawe to the Duik of Lennox, and of auld alyat with the said Erll,) being ane gentilman of brawe personeage and behaviour, and weill lykit of be his Ma^{tie}, com to him befoir he was montit on horsback, and said theise wordis: ‘Schir, gif your Ma^{tie} war at lazer, I wald gretumlie comunicat to 3our grace ane hid and mysticall secreit, quhilk I dar not discover to my brother, wpone na condition, nor to na wther man leivinge, except to 3our Ma^{tie} onlie!’ The King wfeing the ordinar forme of courtesie, quhilk he vsit till all Nobill men, went a pairt with him from his awin company, and harkned quhat he wald say. Than, said he,³ ‘Schir, pleis 3our grace, the wther day, as I was walking alloun athort the feildis, I met ane certane man, wknawin to me quhat he was, quho tauld me of ane great treasour of gold quhilk he had fund; and he schew me quhair the same was: Quhairwpone I tuik the man with the treasour, and brocht him and it baith to my brotheris ludging at Pearth. Bot, Schir, I feir nothing mair nor my brother get wit of it, befoir 3our grace sie ather the man or it, and that he tak boith the man and the treasour to himself, to 3our Ma^{ties} great preindice (to quhom it richtlie appertenis⁴) and to my great hinderance of 3our heines gratificatioun. And thairfoir, Schir, I maist humbly beseik 3our Ma^{tie} that 3e reveill not this thing till any man quhatsumever; bot lat be 3our hunting, and fend away 3our company, except it be tuo or thrie of 3our awin domestick servandis, that 3e may go thither with all diligence.’ The King heiring the gentilman speiking sick a rair purpose, admirit⁵ thairat, and thocht weill it had bene nothing bot sum vaine imagination, and that he had bene befyde himself: Bot aftirwards, heiring him speik so confidentlie, and confirmeing the same, be ane aith, to be trew, he thocht better of it, and promeist that eftir he had hunted ane hour or tuo, he suld ryd directlie with him. And so the said Schir Alexander tuik his leve of his Ma^{tie}.

About ten houris, the King left his hunting;⁶ and the said Schir Alexander cam till him againe, thinking the tyme verrie weirrifum till him; and without geweing the King leve to change his hunting-horse, causit him ryd directlie to Pearth with him, (befoir his onwaitteris, being wandering throw the feildis, had cum till him,) his Ma^{tie} haveing nather sworde nor dager, bot his hunting borne hing- and about his neck.

The forsaide Duik and the Erll of Mar, persaving the King so sudanly to leve his pastyme, and talk that way, wonderit verrie mekill pairat, seing nane of pair servandis war as 3it cum neir thame; 3it thay followit him, in all haist: So that cuming till Pearth, his haill servandis quhilk was cum to him, was bot about 14 or 15 in number. Now Sr Alex^r waited all this tyme so neir to the King, that he had not leve⁷ till schaw any of his attendantis his purpos; except onlie, he roundit to the Duik, that

¹ ‘The Erll Gowrie his Conspiracie.’

² ‘Sr Alex^r Mr of Gowry com to the King at Falkland.’

³ ‘His

speitch to the King.’

⁴ As treasure trove.

⁵ Marvelled, wondered.

⁶ ‘The King gois to Pearth.’

⁷ Opportunity.

‘ he was going to sie a ritche treafour;’ biding him wait wpone him, quhan he went thairtill. Befoir Aug. 1600. his Matie com to the toun, he began to be sumquhat afrayid, quhat þe mater could meane? Bot, calling to mynd the great luiff quhilk he bure to the young man, as also the great bountifulnes quhilk he had schawin, baith to his brother and to all thair freindis, he went fordwart without ony forder feir.

His Matie cuming neir to the toun, the Erll of Gowry him selff, accompanyit with 40 or 50 gentlemen, com forth pairof and met his Matie,¹ and convoyit him till his ludging, in Pearth, (as appeirit, with all dewtiful reuerence) excusing him selff, that he wnderstude not of his Maties cuming thither that day, to þe end that he micht haue bene better provydit for him. The denner being reddie, the King sat doun at tabill and dyneit: And eftir he had dyneit, the Erll himselff convoyit the Duik and the Erll of Mar to ane great hall neir thairto, leiving the King with the Mr of Gowry and the rest of his fervandis. This being done, and all thingis being in redynes, Schir Alex^r said to the King, ‘ Now, Schir, quhill the Duik and the Erll of Mar and the rest of your Maties attendaris ar at denner, it is maist convenient that your Matie go and sie the treafour and the man!’ Quhairto his Matie willinglie agrieth. So, going thairfra, Schir Alex^r caryit him throw ane fair galrie,² and than throw ane wther chalmer, still cloising everie dure fast behind him, saying, that ‘ it was zit better lockit wp;’ and than led him within the thrid chalmer and steikit³ to the dure thairof. This being done, he oppinit ane lytill studie dure, in the quhilk thair was ane airmed man, appointit to be his murderer! Thair was also in the said chalmer ane bred,⁴ with the pictour of wmq^{ll} William Erll of Gowry, (with ane courting hinging befor it) who was execut at Strivling:⁵ And schawing to the King, thair, the man, with his fatheris pictour; without all dewtiful obedience or reverence, most prouddie he pat his hat wpone his heid,⁶ and pointing till his fatheris pictour, said, ‘ Rememberis thow not of the Murder of my father, quhais pictur that is? Does not now thy conscience accus the of his innocent blude? I fall be revengit now wpone the! Now for him thow fall die!’ The King, greatlie afrayit thairat, quyetlie answerit,⁷ ‘ My freind, quhat guid can my blude do to you? I never deservit this at your handis! As concerning your fatheris death, he diet be way of justice; being convict of Heich Treafone, be my Governouris, the tyme of my menortie, and his haill landis and lordschipis, rentis and honouris war foirfaltit be oppin Parliament, and brocht in to the Croun: And zit, notwithstanding thairof, quhan I com till maioritie, I remitid all quhilk pertenis to your father, to your brother and your handis! And lykwayis, your hous, be me, is maid now mair honorabill nor euer it was befor! I am your King! Ie ar a Christiane, and hes bene nurischt with ane quho never wald haue counfallit you to haue murderit your King! Quhat can ye gaine be my death? I haue childrene to be my airis and successouris to my Croun! My people will rwin you and your hous for ever; so that you and your posteritie fall be quyt cutit aff; and nothing fall remaine of your name bot euerlasting schame and infamie! It war better to forȝet all bygaines, and lat us retourne quhair we com fra; and I promeis to you, be the faith of a King, nevir to think wpone any thing that is past, now, betuixt you and me!’ All this tyme, the Tratour was so afrayit with himself, that (as God wald) he had no power to harme the King, albeit he had his drawin dager in his hand.

Efter the Duik and the Erll of Mar and the rest of the Kingis attendantis had dyneit, the Erll of Gowry said to thame, that ‘ the King had gone furth another way.’ But the said Duik making speir- ing⁸ for him, at the common people about the zetis, and porteris thairof, hard that he was not zit cum furth; so that he stayit still, not thinking wpone no evill.

Theise wordis betuixt the King and Mr of Gowry being endit, the said Mr causit the King tweir

¹ ‘ Erll of Gowrie com and met the King.’

² ‘ The Mr of Gowrie schaves Treasoun insteid of the Treasour.’

³ Closed, shut.

⁴ Board; an oil painting on oak or pannel.

⁵ This highly graphic and dramatic circumstance is not stated by any of the Historians; nor is it adverted to in the Depositions, or in the Account published by authority; though it greatly heightens the force of Ruthven’s language, when about to commence his treasonable attack.

⁶ ‘ The proud and treasonable wordis of the Mr of Gowrie to the King.’

⁷ ‘ The Kingis

ansuer.’

⁸ Inquiry.

Aug. 1600. till him, solemlie, to geild himself prisoner to the armed murderer standing besyd him,¹ without ather oppining the windows, or any wayis crying out thairof, till adverteise his followeris of his danger, till he com againe fra speiking with his brother: Quhairvnto he solemlie gave his aith. After the Mr of Gowrie was gone furth of the chalmer, the King, taking couradge to him selff, commandit that appointit Murderer to oppin the windois, for he wald not oppin thame him self, becaus of his aith; or wtherwayis, he sould be revendgit wpone him: Quhilk window he half oppined. This being done, presentlie the Mr of Gowrie com in fra his brother, and said to the King, 'Now thow most die!' And thairwith, having a silk ribbon in his hand, and thairwith griping the King till bind his airmes: The King seing that, taking conradge till him selff, answert, 'I was borne a frie King! I have leivit a frie King! And baith in bodie and mynd I fall die a frie King! And, Tratour! thow fall die befor I die!' And seing him put his hand till his sword, the King so gripid his throit with his left hand,² and his sword airme with his right hand, that he could not get the sword drawin. The Mr, on the other pairt, griping the King so fast as he could, thay baith wrallit togidder, a certane space, in the chalmer, till his Ma^{tie} with him weirit³ neir the oppin windo; and seing it half oppin, cryit with a lowd voice, thrie tymes, 'Treasone! Treasone! Treasone!'

The Duik and the Erll of Mar and the rest of the Kingis servandis, being in feuerall pairtis, heiring the Kingis voice cryinge 'Treasone!' ran in all haift feuerall wayis to find the King. The Duik and the Erll of Mar ran to the entrie quhair the King had gone in at;⁴ and finding all the dures hard lockit, could not win till they gat foir-hammeris and brak up the same. During all this tyme, the King and the said Mr being wralling togidder, thay baith fell wpone the flure, and the King fell aboue him. So the Mr, seing he could not get him self moveit, he commandit the appointit Murderer now to 'slay the King!' Bot he answert, that 'he could not help him.' At this instant, ane certane young gentilman, quho had laitlie bene Paidge of honour to his Ma^{tie}, callid Johnne Ramsay, knawing ane certane privat entrie, throw ane lytill heich turnpyke, till the chalmer quhair the King was, went that way; and finding the dure cloisit, brak wp the same with his fute; and finding the King aboue the Tratour, with the Tratouris sword in his hand, the said Johnne pullit out his dager and strak at the said tratour two or thrie tymes: Bot because it did him no hurt, be reasone of his doublet of pruiiff quhilk he had wpone him, as the King suspectit, he bad him 'stryk laich, at his bellie;' quhilk he did 3 or 4 tymes; and so slew him.⁵ This being done, St Thomas Erskene knight and Hereis doctour of Medecine, com in till his Ma^{tie}, and seing him saiff, praist God.

Presently the Erll of Gowry, heiring the tumult, and awaiting the end of thair treasone, preist verrie fast till rin and do that quhilk his brother could not get done: bot be sum of the Kingis servandis, seing him in sick a raige, he was stayit a quhyll: Bot, geting fra thame, he ran till ane chalmer, and tuo drawin swordis in his handis, com wp with 7 or 8 of his best servandis, the lytill turnpyk, be the quhilk Johnne Ramsay had past, befor, avowing, 'quhom ever he fand in his way, theise swordis sould go throw thame!' And being in the midis of the turnpyk, Johnne Ramsay, heiring sick a din, com doun thrie or four stapis with his raper in hand; and meiting the said Erll, about tuo stapis laicher nor⁶ he was, said to him, 'Now my Lord! quhat will ye have mair? The King is slaine els!' ⁷ ȝit the said Erll so preased to go fordwart, that the said Johnne, seiring forder evill, ran his raper throw his bodie;⁸ and all his servandis fled away fenerall wayis. All this was done befor the Duik or Erll of Mar com neir the King.

The brute⁹ heirof going throw the toun, thair arraisé so great a tumult that the haill commoun people com about the hous,¹⁰ not knawing what the mater was, crying allowd, 'pat if they sawe not the Erll of Gowrie quicklie, thay sould put the house in fyre!' And so contenewit, till the King sent for the Bailleis of the toun, and tauld the haill forme thairof; and than thay quyetide the people.

¹ 'The Mr of Gowry caussis the King sweir himself presoner.' Gowrie.'

³ By degrees worked himself near the window.

⁵ 'Johnne Ramsay slayis the Mr of Gowry.'

⁹ Fr. bruit.

² 'The Kingis wrasling with the Mr of

⁴ 'The Duik and Erll of Mar seikes the

⁶ Lower than.

⁷ Already.

⁸ 'The

¹⁰ 'The toun of Pearth in a Mutany.'

This is the Kingis relation of this storie. Quho wald knaw ony forder of it, lat thame reid ane lytil Aug. 1600. buik, quhilk he caufit, himself, prent pairwpone. Bot this cuning to the earis of sum of the Ministrie, and wther commoun people of the land, hardlie could thay beleive it to be trew; quhilk pat great fuspitioun betuixt the King and many of the people.

Schortlie eftir, the deid bodies of the said tuo brether war brocht till Ed⁷ and hangit wp at the Crofs pairof, and thair heidis and airmes put wpon the tolbuith of Edinbur^t and wther feuerall and oppin pairtis of the land.

No. XVII.

ANE CONSPIRACIE dewyffit be THE ERLL OF GOWRIE to slay HIS MAIESTY.¹

Now, as ye haue hard befor, THE ERLL OF GOWRIE was execut in Stirling, for talking the King in his hous of Ruthweine: This Erll had behind him four sons,² and ane gud number of dochteris, quha had bene mareyitt to findrie Nobill menne of the land.³ His eldest sone, being be his moder putt to the schoillis in Italie, passit his course in Padua; quha returnis to Scotland, about the 13 of Apryll, 1600; and at his hame cuning was kyndlie refauitt be his Prince, and mekill thoct of be all menne; for he wes ane braw manne off persone, ane grit scholler, weill trauellit, and estemit werry wyife; and abuiß all, wes thoct to be ane Nobill man of gude Religioune, and that feiritt God and luiffit iustice; Yitt, in vardlie cairing,⁴ specially contrair the Kingis persoun; hewand ane rewendge hairt for the bluid of his fader: ffor, being inquiritt be sum, 'Gif he wes to beir querrell at Crouner⁵ Stewartt,' quha had beine the principall taker of his fader, at the tyme of his executioun? His ansuer wes, that 'ane egill killed na fleis,'⁶ meaning that his rewendge fuld nocht be so law.⁷ And heaffing to his secund broder, ane gallant manne, quha wes styllit 'Maister,' and had to name Mr Allexander Ruthwene. Thay dewyife to tak his Maieftis lyff, in the Erllis awin hous in Sanct Johnnefroune; becaus the Erll wes Prowest of that famin towne. And to draw his Maieftie to the famin hous and toune, thay dewyife this, that the Maister fuld ryd to the King, and schaw his Maieftie, that my Lord his broder had tane ane stranger passand throw the cuntrey, quha had grantit the heaffing of ane gritt pois of gold, quhilk wes ane grit riches; as also he had confessitt mony thingis, quhilk his Maieftie wald be weill pleiffit of; and that he and pois and all wes in his broderis hous, in Sanct Johnnstoun; bot my Lord wald nocht mell with him, befor⁸ his Maieftie war present.

His Maieftie, being in Falkland, wes ridding out to the hunting, and was on the feildis quhenne the Maister of Gowrie schew him all this; the quhilk quanne his Maieftie hard, nocht heaffand no fuspitioun of Treassounne, incontinent leiffis his pastyme, and rydis with the Maister to Sanct Johnnstoun, not passing 20 in number; the Duke of Lennox and the Erll of Mar being in his company: And at his Maieftie cuning, the Erll of Gowrie semit as giff he had not bene aquent with his cuning, and thairfoir culd not mak his Maieftie sic intertenement as he wald haue wiffit. Bot the denner being enditt, the Duke and the Erll of Mar went to the zaird, to eitt clirreis: The Erll of Gowrie gois with

¹ From an Original MS. Hist. of Scotland, Anon. Adv. Lib. Edinburgh, A. 4. 35. ² (1.) James, second Earl of Gowrie, who was restored in 1586, and died at the early age of 14, in 1588. (2.) John, third Earl of Gowrie. (3.) Mr Alexander Ruthven, born at Perth, Jan. 22, 1580-1. (4.) William, who was skilled in alchemy, &c. died abroad. (5.) Patrick, who was for many years confined in the Tower, London. His daughter married Sir Anth. Vandyke. ³ (1.) Mary, married to John Stewart, fifth Earl of Atholl. Their daughter Dorothea was married to William Murray, Master of Tullibardin, who was of the King's retinue, at the time of the Conspiracy. (2.) Jean, married to James Lord Ogilvy. (3.) Sophia, married to Ludovick Duke of Lennox. (4.) Elizabeth, married to John Lord Grahame, Master of Montrose, afterwards the fourth Earl of Montrose. (5.) Lillias, married to Sir Robert Gordon of Lochinvar. (6.) Dorothea, married to Sir John Wemyss of Pittencrief. (7.) Catherine, died unmarried. (8.) Beatrix, married to Sir John Home of Coldingknows, who was Lady of the Bedchamber, and in terms of the strictest intimacy and friendship with Queen Anne of Denmark. ⁴ In the estimation of the world. ⁵ Colonel. ⁶ His words were, 'Aquila non captat muscas.' ⁷ Low, mean. ⁸ Until.

Aug. 1600. thame, leiffing his Maiefty and the Maifter to beir him company; the Maifter heaffand ane feruand of his broderis in the chalmer, keipitt fecreitt, all in harnifs,¹ quha had this directioun, to ‘abyd thair and to do quhat the Maifter directitt him.’ Now the Nobill men being in the 3aird, the Maifter sayis to his Maiefty, ‘Pleis 3our grace, go fie the eirand 3our Maiefty com for.’ The King arryffis and gois with him wp to the chalmer, quhair the Maifter barring the dur, sayis, ‘3e man be bond,’ heaffand ane gartane to bind his handis with, and drawand ane daggour, sayis, ‘Remember on the deathe of my fader!’ This Andro Henderfoun, quha wes cumand out in harnefs, heiring his Maiefty say, ‘I wes borne ane frie Prince, and I will nocht 3eild villingly!’ The Maifter perfeiffing² to frek, his Maiefty haldis the hand and the dagour baithe, and sayis to Henderfoun, ‘Saiff the Prince lyff!’ At the quhilk word, the man being amaffit, fluid still; and his Maiefty, being worfthelling with the Maifter, cumis neir ane windo, quhair he cryis outt, ‘Tressfoun! The King is slayne!’ Sir Thomas Erkeyne and Doctour Hairreyis being standand law,³ heiris the famin, and cumis wp the foir entrie; bot Johnne Ramfay, his Maiefty peadge, be fortoun, vith the vord, rinnis wp the bak-flair; passing and entiring in the chalmer, findis his Maieftie and the Maifter in grippis, as ye haue hard. This Henderfoun being fled away priuelli, Johnne Ramfay, at his cuming, frekis the Maifter throw the body, and releffis his Maiefty of him; and thairefter, Sir Thomas Erkeyne and Hew Harreyis cumis wp and fraikis him alfo. The cry is reafft be Gowreyis folkis, that ‘the King is away and lopin on!’ Quhairwpone thay com out of the 3eird, with all fpeid, to get horfe: Bot the Erll of Gowrie cuming frst, findis his broder lyand on the flair deid, drawis tua fuordis quhilk he veir bothe in ane skabertt, and cumis into the chalmer, the King being putt into the Cabatt, frekis at thame then that wes on the fluir, and hurttis Sir Thomas Erkeyne on the hand, and Johnne Ramfay on the thie; and wes lyk to haue had the victorie of thame all; bot Johnne Ramfay sayis, ‘My Lord, we are bot feruandis, his Maieftie is slayne!’ At the quhilk vordis, my Lord puttis down the pounttis of his fuordis to the fluir, and standis still. Johnne Ramfay, takand the awantage, fraikis out and fraikis him throw the body; quhair of he fallis deid. The rest of the Nobill men cumis wp and mannis the hous.

The toune of Sanct Johnestoune ryffis and cumis to the 3ett of Gowreyis hous, and cryis for their Prowest; and be mekill ado, was pacifeyit, be the Kingis mowth. The quhilk being done, the King lowpis on horfe and cumis to Falkland; and than our the wattir to Edinbrughe. And on the nynt day of Auguft, Mr Patrik Galloway maid ane preitching at the Corfe of Ed^r, giffand God thankis for the deliyuerance of his Maiefty; and the preitching being endit, the Kingis Maiefty, out of his awin mowth, declairis the hail forme of this tressfoun to the pepill; and defyrit the Ministeris of Ed^r to schaw the famin to the pepill out of pulpett on the nixt Sabothe; the quhilk thay refuiffet, saying, ‘it wes nocht pertinent to thame,⁴ nor thay had no warrant of the Word for thame to preiche sic doctreyne.’ His Maieftie, being heallalie offendit with thame for thair refuiffal, commandis thame ten myllis of⁵ the toune of Ed^r, discharging thame to preiche, vnder the payne of deithe. The hail name of Ruthwene wes chargit nocht to com within ten myllis of his Maiefty. The Ministeris being accusit befor the Counfell, the 10 day, gatt that fauour to remayne in Ed^r, bot not to preiche; bot Mr Robert Bruce was chargitt to pas aff the cuntryis of Scotland, Ingland and Iyrland.

The bodyis of the Erllis of Gowrye and his broder war brocht owir the water, and hung on the gybett benethe the Corfe of Ed^r, and on the 15 day of Nonember, the Erll of Gowry, his broder and fader-broder was foirfaltitt; and Sir Thomas Erkeyne maid Lord of Dirltonne, Johnne Ramfay and Schir Hew Haireyis maid knyghtis of; airmis wes giffin to Sir Johnne Ramfay be his Maiefty, to witt, ane fuord and ane bludy dagour, by⁶ the airmis of the Ramfayis.

This attempt wes thocht to be dewyffit be strangeris and forane Princes, bot speciallie the Papiftis;⁷

¹ Armour. ² Some words are evidently omitted here. ³ Below, beneath. ⁴ It did not pertain to their office, nor were they warranted by the Holy Scriptures, &c. ⁵ Off, distant from. ⁶ Forbye, besides. ⁷ It is rather a singular coincidence, that John Earl of Gowrie actually joined the Popish Lords who were defeated

and sum thocht that thair war sum of Ingland prewie to the famin. He was in his hame-cuming Aug. 1600. intertenyt be all cuntreys quhair he come, as ane Prince, an nocht lyk ane subiect : Gif he had bene ane gude subiect, it had bene ane grit loife of him.

No. XVIII.

DOCUMENTS RELATIVE TO THE CONDUCT OF MR ROBERT BRUCE AND
THE MINISTERS OF EDINBURGH, &c.

[AMONG the variety of extraordinary incidents arising out of the Conspiracy of John Earl of Gowrie, perhaps no feature is more singular, than the obstinate resistance of MR ROBERT BRUCE of Kinnaird, a younger son of the family of Bruce of Airth, in Stirlingshire, and one of the Ministers of Edinburgh, a ruling spirit in the Assemblies of the National Kirk ; and his refusal to return public thanks, for the King's deliverance from this danger. It may be asserted, without the fear of contradiction, that few instances can be adduced, even in the History of the most troublesome periods of the Scottish Church, of sterner and more inflexible adherence to principle (whether real or imaginary), than that displayed, for so long a series of years, by this keen antagonist of Episcopacy and Kingly prerogative ; for he would not yield to the demands of the King, or the entreaties of his friends, down to the period of his death, in 1631. It is not easy, even with the most charitable allowances for exasperated feelings of party spirit, to designate Mr Robert's conduct by a gentler epithet, than that of a revengeful retaliation against his sovereign, for certain oppositions made by him, in the affairs of the Church ; and especially, for his strenuous attempts to introduce Episcopacy. Great tact and ability were displayed by this remarkable person, in his repeated ' Conferences' and disputations with the King and Council ; and his Majesty's unusual and continued lenity and forbearance, show, in the strongest light, how much the opinions of Bruce were known to be valued and followed by the people ; and that the Court attached the utmost consequence to the benefit of his influence with all classes. It is clear, that they strained every nerve to get him persuaded, by fair means, publicly to declare his conviction of the truth of Gowrie's Conspiracy and guilt, and of the King's innocence. Like a second John Knox, Bruce appears, previous to this event, to have assumed and maintained the undisputed sway of the Church ; and it seems obvious, that King James and his Council did not *dare* to adopt those measures, which, in other instances, would have been immediately followed up, with the utmost rigour and extremity. Had Bruce been merely a Minister of the Kirk, of an ordinary stamp, a single week

in October 1593. But he was pardoned in consideration of his tender years, and probably from the King's partiality to him individually ; at all events, it would charitably be inferred by the King and Council, that he was under the influence of the Earl of Atholl.

Aug. 1600. would not have elapsed, before his head would have borne Gowrie and the Master of Ruthven company, on the top of Edinburgh Tolbooth, for his daring and treasonable conduct.

The sources from which the following Collection of Papers has been formed, are *Calderwood's MS. Church History*, *Wodrow's MSS.*, and *the Buik of the Universal Kirk*, from none of which, are any reprehensions against Mr Robert Bruce to be looked for; but, on the contrary, every thing is so stated by them as to exhibit their Champion in the light of one 'persecuted for conscience sake.' There is a 'Narrative by Mr Robert Bruce, concerning his troubles,' in Calderwood's MSS. Adv. Library, M. 6. 9. No. 36, which has been printed in the Miscellany of the Bannatyne Club. It contains a considerable portion of the Conferences here given; but varies in language, and in other respects; and may be referred to by those who have access to that valuable work, and who wish to look more minutely into this unparalleled affair.]

(1.) CONFERENCE *between the* MINISTERS *of* *Edinburgh* *and* THE KING.

UPON Tuifday the 12 of August, the Ministeris of Edinburgh were charged, be a Macer, to compare before the King and Counsell. The King demanded at Mr Robert Bruce, in name of the rest, 'Why they had disobeyed him and his Counsell, and would not praise God for his delivery?' They answered, 'they had not disobeyed, but was all ready to have praised God for his Majesties delivery, generally; as they did, upon the Sabbath immediatlie following; but they could not descend unto particulars, to qualifie what sort of danger it was; in respect they had noe certainty.' 'Had yee not my Letter,' sayes the King, 'to shew yow the certaintie?' 'Sir,' sayes Mr Robert, 'your Letter did bear noe particular, but made mention only of a danger, in generall, and we were content to follow it.' 'Could not my Counsell,' said the King, 'assure you of the particulars?' And withall addresseth himself to the President, 'Assured ye not them?' sayes the King to the President. The President answered, 'Yes, Sir, we all assured them of the certaintie of that Treafone.' 'Sir, with their honourisleave,' said Mr R. 'they had received noe information, except David Moyfes Bill and John Grahame of Balgonie his Report, who came in the mean tyme, when the Lords were sitting at Counsell; and the tuo Reports did foe fight against other, that noe man could find anie certaintie.' The Secretar ryfed up and said, 'they agreed very weill.' The President said the like. Mr Robert answered, 'he had David Moyfes Letter to shew, which would testifie the contrare.' The King asked at last, 'Now, are yee yet perswaded? Yee have heard me, yee have heard my Minister, yee have heard my Counsell, yee have heard the Earll of Marr, touching the Report of this Treafone; whither are yee yett fully perswaded or not?' 'Surely, Sir,' sayes Mr Robert, 'I would have farther light, before I preached it to perswade the people. If I were but a private subject, not a Pastor, I could rest upon your Majesties report as otheris doe.' Then the King asked Mr James Balfour, 'Are yee fully perswaded?' He answered, 'I will speak nothing to the contrarie, Sir.' 'But are yee not perswaded?' sayes the King. 'Nott yett, Sir,' said he. Mr Williame Watfone answered after the same maner. Mr Walter Balcanquall said, that he would 'affirme all that Mr David Lindfay preached in pulpite, in prefence of his Maiestie yesterday.' 'What said Mr David?' sayes the King. 'Mr David founded himself upon your Majesties report, and made a faithfull rehearfall of your report; and foe fall wee.' 'Think yee,' sayes the King, 'that Mr David doubted of my report?' Mr David was sent for incontinent. They said unto him, 'Are yee not certainly perswaded of this Treafone?' 'Yes, Sir,' sayes he, 'I am perswaded, in conscience,

of it.' 'Now,' sayes the King, 'Mr Walter, are ye freely perswaded?' 'Indeed, Sir,' sayes he, 'I would have farther time and light.' Then the King asked at Mr John Hall, 'Are yee fully perswaded?' He answered, 'I would have the civill tryell going before, Sir, that I may be perswaded.' Then the King asked at Mr Petter Hewat, 'Mr Peter, whether are yee yett perswaded or not?' 'Sir,' sayes he, 'I suspect not your Proclamation.' 'But whether beleieve yee it or not?' sayes the King. 'The President heard,' said he, 'what I said the last Sabbath.' The President beganne to justifie him, but the King insisted, saying, 'Lett me hear himself. Whether beleieve yee my Proclamation or not?' sayes the King. 'Sir,' sayes he, 'I beleieve it.' Soe they were all removed, and after a great space the Macer cometh to them with a roll in his hand, wherein all thair names were written, and a score drawn upon Mr Peter and Mr George Robertson's name. Mr George and Mr Peter were not called in. The rest were called. The Chancellor pronounces the Sentence, &c.

(2.) LETTER, THE KING *to the MINISTERS of the Synod of Edinburgh.*¹

TRUSTIE FREINDIS, We greet 3ow heartily weill. pe Ministeris of Edinburgh being discharged pair preaching, be us and our Counsell, for pair unaturall and unduetifull behaviour towards us, in this late danger, wherof it pleased God miraculously to deliver us; We have, by advice of pe same Counsell, resolved that they fall never be restored agane to pair own places; since, in that case, We dread noe lessè then pe hazard of our life and perrelling of our state; as We have more particularlie declared to pe Commissioneris,² by whose advice pair rowmes ar declared to be vacant, that operis may be provided therto. Lyke as, for the same effect, We, be advice of the same Commissioneris, have appointed a meeting at Ed^r, upon the second of October nixt, not only upon order taking in that mater, but for consulting upon such oper thingis as fall be thocht good to be proponned in name of pe Kirk, for pe weall of our and their estate, at our first Parliament, appointed the first day of November nixt: And therfor, have thought good to will and desyre 3ow to direct two of pe most wisest and best affected of 3our number to keep the said dyett, and instructed sufficiently to give ther advice and concurrence with pe said Commissioneris in the premisses; as 3ie will testifie 3our dentifull affection towards us, and the quietness of our and 3our estate. And in respect of our said happy deliverie upon a Twisday, We have, by the advice foirsaid, appointed that every Twisday heerafter fall be a day of ordinar preaching, within every burgh within the boundis of pe Synods; and in like maner commanded, by our publick Proclamation, that pe last day of September next, and the Sunday next thereafter be keep solemnly, for givinge thankis to God for our deliverie of such ane evident danger; which We have thought meet also to intimate unto 3ow, by this our particular Letter, beside our Proclamation, that 3ee pretend noe ignorance. And see, Wee committ 3ow to God. From Stirling, the 24 of Agust, 1600. To our trusty freindis, the MINISTERS of the SYNOD of EDINBURGH. JAMES R.

To be delivered to them by Mr David Lindsay, o^r last Moderator.

LETT 3our Synod be conveyen the third Twisday of September next, for directing of Commisfioners for the effect foirsaid.

(3.) LETTER, MR ROBERT BRUCE³ *to THE EARL OF MAR.*

MY LORD,

AFTER my very hearty commendations of service, fearing that this lingring of mine should give Sept. 1600.

¹ Calderwood's Church Hist. MS. Advocates' Library, vol. v. p. 518.
Church of Scotland.

² Of the General Assembly of the
³ During this interval, the following correspondence is recorded by *Calderwood*, on this subject, but not of sufficient interest to merit insertion here:—

1600. Sept. 18.	Letter, Mr Peter Hewat to Mr Robert Bruce,	Vol. v. p. 532
Sept. 22.	Do. Mr Robert Bruce in reply,	533
Sept. 18.	Do. Mr James Balfour, Mr Walter Balcanquhall and Mr John Hall to Do.	536
Sept. 22.	Do. Mr Robert Bruce in reply,	537

Sept. 1600. occasion to sinister impressions, and nourish the people in lewd opinions (wherunto they are over much bent, of will) of ther Prince, I thought it my duty, my Lord, to prevent such suspicions, and to signifie my minde unto your L. as be this Letter I doe; that if ever God open my mouth, ather in that place or any oþer place, I will promise, be his grace, to suit them and divert them from such cogitations as flew from perversitie of nature, rather then from ane solide ground. This I may doe safelie, and fall doe farther, when God shall grant me farther light; for your L. takes me up wrong, if yee be of that mind, that it is not conscience that moves me to this, but only preposterous affection to persons. My actions, my Lord, shortly will be my best judges and witnesses, ather with me or against me; and in the mean tyme, I would crave this favour of your L. if my service will not be acceptable to his Ma. within the country, that he would suffer me, with his Licence and favour, whill this storm be settled, to depart. I will not fash your L. with farther Letter; but, if I durst say it, my conscience sayes to me, I deserve good will of your L. alwayes. The Lord in his mercie direct your L. in all your affaires, and take you and yours under his tuition and defence, both now and ever. OF AIRTH, þe 22 of September 1600. Your L. to his power to be commanded, with service.

MR R. B.

(4.) LETTER, *the* EARL OF MARR, *in reply to* MR ROBERT BRUCE.

SIR,

I RECEIVED your Letter, wherein yee desired me to be a dealler at his Ma^s hand, that yee may have a Licence to passe furth of þe countrie, if better cannot be (whereof I would be very sorry.) I shall leave nothing that in me lyes to doe that which yee desired me; but yee must give me leave, even to speak with yow. I think yee are farr in the wrong, to your self and all your weall willers, that is soe hard of credit, in soe manifest a mater; and now, seeing it has come to such ane hight, I fear his Ma. shall be very hard in it; for I darr take it on me, before God in heaven (that is my only witnesse, in writteing these words unto yow,) that þe most mischant Treafone that ever was intended against a Prince, was that day intended against his Ma. be my LORD OF GOWRIE and his brother. This I may baldly write, in respect of þat I saw; and if I had occasion to speak with yow, I beleve to let yow see it evidentlie. Alwayes, Sir, I beseech yow evin to resolve with your self upon that; which I am assured of in conscience yee may; and that, in respect I knew it to be the truth. I remit þe rest to þe bearer, whom I know yee will credit. And soe, I committ yow to God. OF STIRLINE, the 24 of September, 1600. Your loving freind, MARR.

As to that part of your Letter, concerning your good will toward me, in truth I never thought oþerwise; nather merited I ever other at your hand, nor yet shall doe.

June, 1602.

(5.) LETTER, MR ROBERT BRUCE *to* THE KING.¹

[THE following Letter has been collated with a more correct transcript, preserved in ‘*The Booke of the Univerfull Kirk*’ Adv. Library, W. 1. 14, p. 329; from which this Extract has been taken. ‘Anent the request made be the Moderator, in name of the haill Assemblie, to his Ma., in favouris of Mr Robert Bruce; His Ma. declarit, that he wald doe in that matter, be the advyce of the Commisfioneris of the Generall Assemblie, and (as) Mr Robert, be his awne behaviour, should give him occasion. And because Mr Robert Bruce had, be his Misfine direct to his Ma. before his departure off the countrie, as also by the ratificatione and farther examinatione and explanatione thereof, in write, at Perth the 26 of July, 1602, declarit his resolutione of HIS MA. innocencie, and guiltines of the EARLE OF GOWRIE and his brother; and promised to divert the people, so farr as in him lay, from

¹ Calderwood remarks, ‘Mr Robert Bruce, eight dayes before the time appointed for his departure, directed a Letter to the King, be the Laird of Balvaird; wherein he took his good night, and made a repitition of the former offers, in as reverent and humble maner as he could.’

their lewd opinions and uncharitable constructions, anent his Ma. actiones, namely in this turne. June, 1602. Therefore his Ma. defyit the determinations of the Assemblie, quhither, if the said Mr Robert should lykewise make the same declaration in pulpit, according as it is at lenth set downe in the said Missive and explanation thair of, at Perth? Qubair of the tennor follows, &c. The quhilk, the hail Assemblie, after voteing, thought not only reasonable, but also concludes, that the said Mr Robert aucht to do the same.' This affords the most satisfactory explanation of Mr Robert Bruce's conduct, and sets it in the true light in which it ought to be viewed. The subsequent behaviour of this zealous and able man, when all the previous circumstances of his personal altercations with the King are taken into consideration, is far more questionable than, in charity, without such explanation being afforded, might have been conceded.]

PLEASE YOUR MA.,

HEARING that your Ma. was nothing relentit of your former wrath against me, and being now upon the point to shew my obedience unto your Ma^s last charge, I could not omitt this, as my last dewtie, to intreat your hiences clemencie, and to mitigate the extremitie of this intendit wrath. I am not ignorant of that speech, that 'pe wrath of pe Prince is the messenger of death,' for that I craue that the Lord, for Christ sake, may adde his blessing, and work affectionatly¹ in your grace, as he shall see expedient for his awne glory, and your Ma^s perpetuall preservation. Then, to be short, to shew my conformitie with the rest of my breithers of the Ministry, as at all tymes, for now especially, to shew both my reverence to your Ma., and to clear my suspectit affections herein, I offer to give to the father of our Lord Jesus Christ, in him and throw him, most heartilye thankis, for all your Ma. deliveries, from your cradle to this present houre; but namely, for that deliverie which he grantit to your Ma. in S. Johnstone, on Tuifday the fyfth of August, far above all our deserts and your Ma^s expectation. I offer also to stir up the people to that same dewtie; and attour, to divert the people, for far as in me lyes, from ther leud opinionones and uncharitable constructions of your Ma. actions; and namely, in this turne. Finallie, ther is noe dewtie that your Ma. can crave of me, without the manifest offence of God and hurt of my own conscience, but I will doe it, with alfe good a heart as ever I did anie thing in the earth; that if by anie means I might testifie my good affectione toward your Ma. my Sovereigne, and to enjoy my naturall air and such uther comforts as the Lord hes given me under your Ma^s raigne, quhilk I maist humblye crave of your Ma., beseekeand the Lord to move your heart hereunto, for Christ's sake. Soe, waiting of your H. answer, in all humilitie, I take my leave.

MR ROBERT BRUCE.

(Upon the back thereof.) AT PERTH, the 26 of June 1602. Farther, concerning the heids within containit, I am resolvit of his Maties innocence and the guiltiness of the Earle of Gowrie and his brother, according as it is declareit be the Act of Parliament: And therefore, acknowledges the great mercy of God towards his Ma^s haill Kirk and countrie, in his Ma. delyverance; for the quhilk, I thank God from my heart.

(Sic subscriptur)

MR ROBERT BRUCE.²

(6.) *NOTA. THE ANSWER to this is not preserved by Calderwood, as explained by him in the following terms.*

Mr Robert was upon his journey to the ship, and Balvaird³ returned with his answer to his wife. He shewed her that his Ma. had interlyned the Letter, and eeked⁴ some words upon the margin:

¹ 'Effectually,' in *Book of Univ. Kirk*.

² This postscript or indorsation, Calderwood most unfairly omits. This is by no means a solitary instance of such conduct. It must be obvious to any one who carefully peruses the various Conferences, &c. that he uniformly studies to place Bruce in the character of the hero of his book, and in the interesting attitude of a person persecuted for conscience sake, and cruelly trampled upon by the constituted authorities.

³ Sir Andrew Murray of Balvaird.

⁴ Added.

Oct. 1600. and if Mr Robert condescended not to these words, and wes not content to utter them in pulpit, there was noe byding for him in Scotland. He defyred also, that he might keep the interlyned Letter a while, promysing to redeliver it; but he gave it to his uncle Sir Patrik Murrey, and was never redelivered. In the meantyme, Mr Robert returned to Restalrig, upon Thursday at night,¹ the penult of October. The ship was not as yett out of the harbourie, it being great in quantitie,² and heavie loadned, and the floods³ also decreasing, there was litle hope of out-getting. Alwayes Cornelius Inglis, sonne to James Inglis the owner of the ship, was moved to emptie her of a great part of her loadning; but the deid neep⁴ was so great, according to the course of the moon and custome of that sea, that they looked not for her floating: But, by⁵ ther expectation, and farr by the custome marked in those seas, 80 years before, where the waters sould have decayed, against the custome they increased, till they put her on floatt⁶ and convoyed her out; and thereafter returned to their own naturall course, and continued in ther ebness⁷ for five weeks after. The ship faired furth on Saturday the first of November, and was drawn up to the Queens-ferrie, where she lay at anker. Upon the third of November Mr Robert went up to the ship. Two of the Ministers certified him, that he was to be charged, vnder the paine of Treason, to retire to the ship within 24 houres; which made him to make the greater haste. Soe he raid to the Queens-ferrie, accompanied with Sir William Cranstoun and his sone; and after supper took ship. Two bailliffes went with him to the shipe, and Mr Thomas Gray and a Notar, John Maky. He took instruments in the hands of the Notar, that he obeyed the Act. They returned in a boat. It was marked by them that returned, that, by⁶ custome, there appeared foe great a light, which served them to read, and the mariners and skippers to take up sail; although it was neer midnight. Soe they drew to sea, by God's blessing, and arived at Deep⁷ in France, upon Saturday the 8 of November.

(7.) LETTER, MR ROBERT BRUCE to HIS WIFE.

A long letter is inserted in *Calderwood's MS. Church History*, Vol. V. p. 584 to 591, in which he treats of his 'persecution,' &c. He subscribes himself, 'Your loving husband, not wearie I assure yow of the Lords crosse, but wearie of the treicherous flatterie of men.' It is dated, 'Off Berwick, the 5 of this instant of June.' And on Sept. 29, 1601, Mr Patrick Simson, Minister at Stirling, writes him, inviting him to return to Edinburgh.—See *Calderwood*, p. 692.

Jan. 1602. (8.) 'A CONFERENCE between MR ROBERT BRUCE and some (Commissioners) directed from the King.'

THE KING appointed Mr Robert Bruce to come to Craigmiller, to conferr with some appointed be him. Mr Robert took Mr Patrick Simsone with him, to be a witnesse to thair dealing: Soe, upon the 15 of Januar (1602), they mett at Craigmiller. They proponned three things to him: (1.) That he would approve the book sett out upon Gowrie's Conspiracie: (2.) That he would purge the King, in such places as the King sould appoint him to preach in: (3.) That he would crave the King pardon, for his long mistrust and disobedience. All the three were refused be Mr Robert, after long conference. They gave him some Articles and Instructions, in write, and craved his Answer in write; the tennor wherof followeth.

INSTRUCTIONS for his Majesties Commissioners directed to Mr Robert Bruce.

WHETHER, if he be throughlie resolved now, of the forme and maner of that treafouable attempt committed against his Ma. at Perth; and speciallie, of his Ma's honest minde, intention and miraculous

¹ This must have been done by stealth, and in contravention of the Charge which confined him to Airth, &c. See p. 233, &c. ² Size, burthen. ³ Flood tides. ⁴ Neap tide. ⁵ Contrary to. ⁶ Contrary to. ⁷ Dieppe.

deliverance, and of GOWRIE's and his brotheris vile and bloody Conspiracie, intended to be taking away of his Ma^s life; as is particularly sett down in the printed book and Acts theranent, or not? As his doubting of that turne hes been the principall cause of the doubt of many, and of his H. slander in that point, if he be willing to utter in pulpit, in such places as fall be appointed, his resolution therein, according to the forme of the said Articles, as clearly, as any his Ma^s good subjects have done; craving pardon, and excuseing his long incredulity, and the slander arising therupon; and wishing the people that anywise doubted pairof, as they were ever ready to conceive doubts upon unjust grounds, only moved by his example, foe now to be contented, be his means, rightly to be resolved thairof.¹

(Sic subscribitur)

JAMES R.

(9.) THE SECOND CONFERENCE of MR ROBERT BRUCE *with* THE KING.

IN the beginning of Aprile, the Erle of Marr directed a Letter to Mr Robert Bruce, at the King's direction, to come to Brechin, with diligence. Immediately before the receipt of the Letter, he was exercised in prayer, with shedding of tears. When he come to Brechin, as soon as the King saw him, he raise, and come forward to the place where he stood; and looked, as appeared to Mr Robert, very lovingly. He caused void the house,² none remaining but the King and Mr Robert. The King asked, 'If he was resolved?' He answered, 'Yes.' He asked next, 'What moved him?' Mr Robert answered, 'Sundrie things, namely, my Lord of Marr his deep swearing; for I thought (said he) that a Christian, of his quality, could not forswear himselfe, for all the gear in the world!' 'How could he swear?' said the King; 'he nather saw nor heard!' 'I cannot tell that, Sir,' said Mr Robert, 'but indeed he swore very deeply.' The King, understanding what was the forme of the oath, which he repeated to him: 'What was the cause, then,' said the King, 'yee would not trust me?' 'Sir,' said Mr Robert, 'Your Ma. took noe paines to informe.' 'I sent,' said the King, 'Sir Thomas Areskine to yow.' 'As for Sir Thomas Areskine,' said Mr Robert, 'I trusted him in a part; but thair were other things that I thought hard.' 'What was that?' said the King. 'That part which concerned the MASTER of GOWRIE and your Ma.' said Mr Robert. 'Doubt yee of that?' said the King. 'Then yee could not but compt me a murderier!' 'It followeth not, if it please you, Sir,' said Mr Robert; 'for yee might have some secreitt cause.'³ The King deduced the whole Tragedie, from the beginning. Mr Robert uttered his doubt, where he found occasion. The King heard him gentlie, and with a constant countenance; which Mr Robert admired.⁴ At last, the King urgeth him to preach the Articles which were sent to him. Mr Robert answered, he had 'given his answer already to these Articles; and had offered to the Ambassadors that which all men thought satisfaction, yea more than preaching.' 'What is that?' said the King. 'That I will subscribe my resolution,' said Mr Robert. 'Trust you it?' said the King. 'Yes, Sir,' said Mr Robert. 'If ye trust it, why may yee not preach it?' said the King. 'I shall tell yow, Sir,' said Mr Robert; 'I give it but a doubtfulsome trust; for I learn this out of Bernard, "in doubtfulsome things, to give undoubted trust, is temeritie; and in undoubted things, to give a doubtfulsome trust, is infirmity!"' 'But this is undoubted,' said the King. 'Then bear with my infirmity!' said Mr Robert. 'But yee say it is more than preaching?' said the King. 'Sir, I ought to preach nothing but the word of God,' said Mr Robert. 'Obedience to Princes, suppose they were wicked, is the word of God,' said the King. 'I durst lay a waiger, ther is noe expresse word of King James the Sixth, in the Scripture.' 'Yes,' said Mr Robert, 'if thair be a King there, there is word for yow also.' 'The whole Kirk has done it already,' said the King; 'yee must not be singular!' 'Sindrie have not done it,' said Mr Robert. 'Shew me one!' said the King.

¹ The Answers are general and evasive; and as the substance is contained in the following most remarkable CONFERENCE with the King, at Brechin, it seems only necessary to refer the curious to *Culderwood's Church History*, MS. Vol. V. p. 598, &c. ² The Chamber. A common mode of expression at this time. ³ Occasion, necessity.

⁴ Lat. *admirare*, marvelled; or wondered at.

Apr. 1602. 'Your Ma. must bear with me,' said Mr Robert; 'for it were against the rule of Charitie to harme my brethren.' He defyred the King to convene the Ministrie, to see what they would injoyne him to doe. 'That needeth not,' said the King; 'none darr or will refuse but yee; and therefore yee are the sole and only ground of my slander.' Mr Robert, to clear him of this imputation, said, 'I have offered to subscribe my Resolution, in what language your Ma. please; which none have done but I.' 'Where is your Resolution?' said the King. 'I sent it in write to your Ma.,' said Mr Robert. 'That which yee sent was too generally,' said the King; 'but what fault find yee in my Articles?' 'I cannot remember all; but one thing I remember,' said Mr Robert, 'yee would have me to resolve according to your book; and who can doe that?' 'There is never a false word in that book,' said the King. 'Yes, Sir, there are sundrie.' 'Weill then,' said the King, 'wee shall putt out that clause out of the Articles. What other fault find yee?' 'I cannot remember now,' said Mr Robert. 'Have yee not the Articles?' said the King. 'I gave them to Sir Patrick Murray,' said Mr Robert. 'I am sure,' said the King, 'yee have kept the Copie.' Mr Robert, perceiving the King's drift, to urge him farther, thought it not expedient to produce the copie. 'Weill,' said the King, 'stay heer till Sir Patrick Murrey come.' Yet, after supper, Mr Robert gott licence to returne home, till the next advertinement.

Sundrie other things past between the King and him, in conference; as namelie, Mr Robert defyred, that he 'and others of the Ministrie be not urged to hurt their consciences; and that his Ma. would not think, that honest men would sell their soules; howbeit their bodies and geir shall be at his command.' 'I understand not what ye mean,' said the King, 'be selling of your soules; but I shall gar the best of you say and gaine say!' 'That may be, Sir,' said Mr Robert, 'and that yitt they say not against conscience.' 'Yee shall not find the like in me,' said the King; 'my saying shall be alwise one.' 'It setteth not to compare with your Ma.,' said Mr Robert.—He prayed in heart, all the time, thus—'O Lord! keep my heart unto thee! and save me from the danger that this traitourous and false heart is like to cast me unto!'

(10.) THE THIRD CONFERENCE *of* MR ROBERT BRUCE *with* THE KING.

MR ROBERT BRUCE, after his Conference with the King at Brechine, was confined in the parioch where he had his dwelling place, and suffered to preach noe where ells. He received a Letter from the King, to come to him, to Perth, the 24 of June. When he come and entered in the King's chamber, no other was suffered to enter but Sir Patrick Murrey. The King asked, 'Where the Articles were?' Mr Robert answered, that he had redelivered them to Sir Patrick Murrey. Sir Patrick produced them. After they were read, the King asked, 'If he was willing to preach according to these Articles?' 'Not, Sir,' said Mr Robert, 'if it please you?' 'Why?' sayis the King. 'Because my preaching is the mater of my Instrukcion and Commission: No Prince hath the power to give instructions to another Princes Ambassader. I am the sone of God's Ambassader and preacher!' 'But,' said Mr David Lindsey,¹ 'yee offered to preach to that effect, before yee went out of the country.' Whereupon, Sir Patrick produced Mr Robert's Letter; which was read, in the audience of the King and Commissioneris. 'Weill,' sayes Mr Robert, 'yee refused this offer, soe am I not bound to it.' 'Will yee goe from the thing yee have offered?' say they. 'Weill,' sayeth Mr Robert, 'will this Letter satisfie you? Shall I be noe farther urged, in case we condescend to this Letter?' 'Nay,' quoth the King, 'yee may say all this and not be resolved! Say truly, was yee resolved at that tyme or no?' 'Not indeed,' said Mr Robert. 'How say yee then, that yee will give thanks for my deliverance, that day?' said the King. 'Yes, Sir,' said Mr Robert, 'I have cause to give thanks for your preservatione, suppose yee had cast your self in danger.' 'I told you that,' quoth the King; 'yee see what he meant.

¹ He was Minister of Leith, and preached the Oration before the King the day of his landing after the Conspiracy.

—Are yee now refolved?’ ‘Yes, Sir,’ said he. ‘That’s but the duety of a subject, when yee have Jun. 1602. done,’ said the King. ‘Are yee refolved to preach?’ ‘I am discharged to preach the pleasures of men,’ said Mr Robert: ‘Place me where God placed me,¹ and I shall teach fruitful doctrine, as God shall give me grace: But we have not that custome to be enjoined to preach; nor I darr not promise to keep that injunction. It lyeth not in my hand to make a promise; I know not certainly what God will suffer me to speak; I may stand dumb. Therefore, Sir, leave me frie; and when I shall find my self to be moved, be God’s spirite, and to have the warrant of his word, I shall not fail to doe it.’ ‘That is plaine Annabaptistry! That is a caball and tradition,’ said the King: ‘Yee shall preach as the rest have done, or ells I cannot be satisfied. Yee shall goe!’ ‘I pray your Ma.,’ said Mr R. ‘sett down your disjunctive, and the one, God willing, shall be as welcome to me as the other. I have racked certainly a peace of my heart, to please your Ma.; now seeing your Ma. cannot be satisfied, except I make shipwrack of all, lett me goe, in God’s name. Suppose I have some commodities, as other mean gentlemen have, in your Ma’s countrie, yett, Sir, I never defyled to have seen your Ma’s face, or your countrie aither, except I had been certainly informed that your Ma. was satisfied!’ ‘What warrant had yee? Who informed yow foe?’ said the King. ‘If it please yow, Sir,’ said Mr Robert, ‘I had first a warrant from the mouth of both your ambassaders, who assured me their satisfaction should be yours.’ ‘I trust,’ sayeth the King, ‘they will not say, suppose of all this new kindnesse that is knitt up betwixt yow.’ ‘Surelie, Sir,’ said Mr Robert, ‘I am perswaded they will say it, and heer is a brother, (meaning Mr Patrick Simfene,) that hes heard my Lord of Marr say as much. Beside this, if it please yow, Sir, I have your Ma’s own warrant, be Letter.’ ‘What!’ sayeth the King, ‘my Letter?’ ‘Your Ma’s Letter,’ sayeth Mr Robert, ‘willett me to fend in my resolution, in write; and therupon, promised to be satisfied. And foe I did; and therefore, I ought not to be urged any farther.’ ‘My Letter beareth noe such thing,’ sayeth the King. ‘If it bear not, Sir, it shall turn to my own paines,’ said Mr Robert. ‘I have it beside me.’ The King went in to his Cabinet, and walked up and down a reasonable space. In the mean tyme, the Commissioners dealt with Mr Robert, almost each one after another. He would have gladly gone out of the house, but the door was locked; foe he behoved to stand, till the King come out of the Cabinet. At last, the King cometh out. The Commissioners say to him, ‘Sir, seeing it is foe, that Mr Robert alledged such promises, yee shall leave the preaching free to his own will: But let us come to his subscription in the rowme thereof.’ ‘Are yee content,’ sayes Mr David and the rest, ‘to subscribe the King’s innocencie and their guiltinesse?’ ‘Not in these terms,’ answered Mr Robert. The King urgeth him the more earnestly, and sayeth, ‘I will not only have yow cleering mee, but my whole company.’ ‘As for your Ma’s company,’ sayes Mr Robert, ‘they have no need of my cleering; nather will they seek it. I am bound to your Ma., and I will doe all that lyeth in my possibility.’ ‘Then yee must subscribe my innocencie,’ said the King. ‘Your own conscience, Sir, can doe that best,’ said Mr Robert. ‘It is very hard for me to do it!’ ‘Why is it hard?’ said the King. Laith² was Mr Robert to answer, least he should irritat him; but he insisted. Then said Mr R. ‘Your Ma. will not be offended if I speak freele?’ ‘Not,’ said the King. ‘I was reading,’ said Mr Robert, ‘upon Ammandus Polanus, touching the slaughter of the Magicians, when the King of Babell commanded to slay. Ammandus disputeth the question, whether the King of Babell did weill or not? First, he sayeth, *animi gratia*, it would appear that he did weill; for he had the plaine law of God for him, in manie places: Yett he concluds against the King, that he did not weill; ffor, howsoever he had the Law, yett he looked not to the Law nor had regaird to God nor his glory: Therefore sayeth he, howsoever the Magistrat hath the sword and may most justly execute, yett if he have nothing but his own particular³ before his eyes, God nor his glory, he is a Murtherer!—Now, Sir, I pray, what can I or any man say, what your Ma. had before your eyes? Or what particular yee had?’ ‘It is true,’ sayeth the King, ‘and therefore I will give yow leave to

¹ Restore me to my pulpit.² Loth, unwilling,³ Quarrel, offence, or cause.

Jan. 1602. pose me upon the particulars.¹ 'Then, first, it please yow,' said Mr Robert, 'Had yee a purpose to slay MY LORD?' 'As I fall answer to God,' sayeth the King, 'I knew not that my Lord was slaine till I saw him in his last agonie; and was very forie, yea prayed in my heart for the same.' 'What say yee then concerning MR ALEXANDER?' said Mr Robert. 'I grant,' said the King, 'I am art and part of Mr Alexander's slaughter; for it was in my own defence.' 'Why brought yee him not to justice,' said Mr Robert, seeing yee would have had God before your eyes?' 'I had neither God nor the Devil, man, before my eyes,'² said the King, 'but my own defence!' Heer the King beganne to frett. He took all these points 'upon his salvation and damnation,' and that he 'was once minded to have spared Mr Alexander; but being moved, for the time, the motion prevailed.'³ Farther, Mr Robert demanded of the King, 'If he had a purpose, that day, in the morning, to slay Mr Alexander?' The King answered, 'upon his salvation, that day in the morning he loved him as his brother!' Mr Robert, be reason of his oathes, thought him innocent of any purpose that day, in the morning, to slay them: Yet, because he confessed he had not God nor justice before his eyes, but was in a heat and mind unto wrong, he could not be innocent, before God; and had great cause to repent, and to crave mercie for Christ's sake!

In end, Mr Robert yielded to subscribe his resolution, according to the Act of Parliament; which he did, Partly because, in his judgment, it was the duety of a subject to reverence the lawes of the Country, except he knew them, certainly, to be contrarie to the word of God: Nixt, he was bound to free himself of that imputation which was layed to his charge, partly be the King himself, partly by others, directed to him from the King, that 'come death, come life to him, come what would come of him, the whole blame should lie upon him, in respect he was the author of the slander!' Thirdly, because he made a faithfull promise to him, that 'noe more should be craved of him.' Soe, upon these three respects, he gave his resolution, in write; not that he was perswaded, in his conscience, for any thing that he could learn, be himself, or from God's Spirit, after prayer, as he himself recordeth in the Historie of these proceedings; but, in respect there was a strait and publick Law, he thought good to follow it, till God gave him farther light. All the Commissioners, and Mr Patrick Simfene, who accompanied him, subscribed as witnesses. Whereupon Warrant was granted to him to travell abroad in the countrie; provided he come not neer Edinburgh, be four milles.

Nov. 1602. (11.) MR ROBERT BRUCE drew neer to Edinburgh, in tyme of the Assemblie. *George Heriot* and *John Robertfone*, Commissioners for the Town of Edinburgh, made mention of his reposition;⁴ wherunto the Assembly applauded. But the King and the Moderator⁵ alledged they had fundrie things to proponne, before that were granted. The King defyred to have the Interlocutor of the Assembly, 'whither Mr Robert should be enjoined to utter in pulpit, that which he had offered in his bill before his banishment, and the resolution which he had subscribed at Perth, after his returne, or not?' Mr John Hall⁶ being first asked, answered, 'Ther could be nothing done in that mater, whill⁷ the parties were first heard.' Soe it was thought meet that Mr Robert should be sent for: But the mater was delayed till the end of the Assembly; and howbeit he was nather called nor heard, they voted that he should publish in pulpit his bill and resolution.⁸

¹ Grounds of quarrel or grudge. ² That is, in the heat of the struggle and the deadly encounter in which he was engaged, he had no leisure for reflection, but looked only for the means of ridding himself of his antagonist. ³ On cool reflection, and at that distance of time, the King is inclined to think it might have been in his power to have saved Mr Alexander's life. But this he admits, after being in the knowledge of all the facts and incidents, which he could not at the time have contemplated. Had he attempted to have taken him alive, in all human probability, it would have cost his own life and that of his party: for Gowrie, as Provost of Perth, and adored by the citizens, could have in an instant overpowered the handful of followers attending upon the King, in this hasty and unprepared visit. ⁴ The fact of his being reponed or reinstated. ⁵ Mr Patrick Galloway. ⁶ The Moderator of the former Assembly. ⁷ Until. ⁸ It is unnecessary to pursue this matter farther. The Editor hopes that Wodrow's Life of this remarkable person, together with the Lives of other eminent public characters, written by Wodrow, shall soon be published. The publication of these Lives would prove a valuable accession to the History of Scotland, and could hardly fail amply to repay the person who undertook such a task.

(12.) LETTER, *the Laird of Beltries* (*Sir James Sempill*¹) to *Mr Robert Bruce*. Nov. 1602.

SIR,

I INQUIRED of his Ma. yesternight, if he had any new intention anent yow? He answered, none, but that yee sould enter and doe your duetie, as was told yow of before. His Ma. alledges, yee never bide long at one resolution; ffor, after my excuseing yow of your not abilitie for preaching the last Sabbath, as yee willed me to doe, yett he sent Mr Henry Blyth to the Moderator, to enquire if yee sould teach? This I was ignorant of; but yett I answered, that it was upon a fear that possessed yow, of a new offence, in not teaching; and soe that was done for the full assurance of his Ma^s minde in it. To the purpose, Sir, yee fall enter, if yee please, on Sunday next, and advertise his Ma. two or three dayes before; inquireing, if he please to speak with yow? At your entry, yee must doe (as his Ma. speeche is) the duty of a good subiect and of a good pastor; not to say, simply, yee are resolved, which yee have done already; but yee must indeavour to remove all scrouple from the auditor; as weill in cleiring his Ma^s innocencie, as of your guiltinesse. These are his Ma^s own words: And my poor advice is, to satisfie his Ma.; feing, (with manie) I think it may and would be done, being a thing able to do good to the King and whole Common-weall, to knitte the hearts of his people to him, by removeing scrouples, if any be, or by confirming them in the concewed truth; which, be your silence in this mater, will be called againe in question be them. The Lord give yow that resolution which may best serve for his glory. HILYRUDHOUS, this Tuifday the last of Nov^r 1602. Keep this ticket for both our warrants.

(13.) MR ROBERT BRUCE'S ANSWER to *Beltries' last Letter*.

SIR,

I WAS upon my journey homeward, when I received your last Letter; and hearing that yee were gone in the country, I delayed any answer till your returneing. Therefore, now, Sir, for answer; first, I say, that if Mr Henry Blyth had any such commiſſion of me, or if the honest man will say soe in my name, I will be content to take that imputation upon me: but otherwise, as it is true indeed, I received wrong, I am noe wayes ambitious of it. For I have been twice thrust into it, and as oft out of it; and I have noe will that his Ma. be compelled to use his Royall office upon the remanent of my frail life. For these four or five yeares bygane, I have been continually under a lingering and dwyning death, which I am assured has been more troublesome and tedious to me, both in body and minde, then that hour of death fall be, when euer it fall please the Lord to call me therto. I have not forgott these voices, that oftentimes I woudered to hear, 'that his Ma. dreadeth us bodily harme.' These things maketh me to look or I leap, and to advise weill or I enter; yett I speak nott this, as if I were minded to shake off my duty that I ought to my flock: But if it would please his Ma. to suffer us to stand in that liberty wherein the Lord hes placed us, and to speak in the chair of truth, as the word and spirit of truth sould direct us, I would promise, be God's grace, when ever the word sould give us occasion, as oft tymes it will, that then, from the authority of the word, I fall repress all sinister constructions of his Ma. actions, and by the authority thereof, beat down all seditious and insolent humors of subiects, that would presse to usurp upon your superiours; and soe, from the word, as moved therby to speak upon these matters; which must have a farr greater grace nor² to speak be way of injunctions, or speak as it were a cunned lesson,³ or ane A B C putt in man's hand. The one deuty smelleth of Divine Theologie, the other of Court Theologie, and does noe good to the cause, but hurts greatly: And as God liketh of a cheerfull giver, soe when the people seeth these things to come freely, of my self, without constraint, nor yett putt unto my head, they will reverence them the

¹ He was son of John Sempill of Beltries, whose conviction for Treason is recorded in vol. i. p. 72. Sir James was Ambassador to England 1599, &c. and was author of a Satire, 'The Packman and the Priest.' His son Robert Sempill was author of the well-known Elegy on 'Habbie Simson the Piper of Kilbarchan.'

² Conned lesson, got by rote.

³ Than.

Dec. 1602. more, and have the greater weight with them. Soe to be short, if this sort of service may be acceptable to the Prince, I am at command; if otherwise, I will hold me with the benefite that I have gotten, within the compafs of obedience; and be God's grace, fall be unreprieveable of any. Having noe farther for the present, I rest, &c.¹

(14.) LETTER, *Mr John Hall to Mr Robert Bruce.*

SIR,

Jan. 1603. JAMES AIKINHEID, bailiffe, gave intelligence to his Ma. that yee were purposed to preach this next Sabbath, God willing; and I being down in the Abbey, his Ma. gave me this answer, and ordained me to signifie the same unto yow: That is, because your advertisement was generall, and thereby he could not understand what yee was to doe in the matter, wherein he has been offended; also, he would assure yow, that if yee entered into the pulpit, and did not according to the Act of the Assembly, it would be a matter of great irritation: Therefore, be your tickett, ye would certifie againe that ye are ready to preache, and to satisfie his Ma. according to the Act of the Assembly; or otherwise it will not be heard as a sufficient offer. Sir, if yee write heeranent to mee againe, I fall be ready to deliver it, and shew yow the event.²

Your brother in Christ,

MR JOHN HALL.

(15.) MR ROBERT BRUCE'S LAST CONFERENCE *with THE KING, on Tuesday the fifth day of April, 1603.*

Apr. 1603. MEN of all qualities resorted to Edinburgh, to congratulate the King his preferment.³ Motion was made, be some brethren of the Presbytery of Edinburgh, that Mr Robert Bruce should be desired to come East to congratulat with the rest; for the King took it evill in part, as was reported, that he should be the last in giving signification of his humble affection. Upon Saturday, the 2 of Aprile, Mr Robert returned answer, that 'in respect of his Ma's last Conference, holdin with the Commissioners, he durst not take the boldnesse to draw neer to his Ma.;' alwise,⁴ did signifie the sinceritie of his inward affections, to the Lady Marr and some other noble women, who could bear witnesse of his integritie in that point: But, seeing he was informed that his Ma. would accept the offer of his affection, he should come with diligence, to try what might be done.

Soe, upon Monday, the 4 of Aprile, he come to Edinburgh and founded some stable men, his freinds, touching the King's disposition, whither he was willing to accept of him and his congratulation. Soe farr as he could learne, he was not able to redeem his countenance and favour, but with confession of a fault, and that upon his knees; be which meanes he might eschew publication in the pulpit, and recover his Ma's favour also. Mr Robert findeth himself brought in as great a strait almost as ever he was; and answered to the Lords that interceded for him, that 'seeing he could not purchase his Ma's prefence but upon these hard conditions, his earnest desire was, that they would make his excuse, in all humility, to his Ma. and to shew that notwithstanding he came to the town to congratulat, the preasse and throng of the people was soe great, because his Ma. was upon the point of his departure, that he could get noe access.' They take much in hand;⁵ but the King, understanding he was come to town, sent one of his domestick servants, James Murray of Powmais, the day following, Tuisday the 5 of Aprile, soon in the morning, before his Ma's departure, for him, before he was risen out of his bed. Mr Robert thought it hard, and that the King catched that peace of disgrace to his Ministry.

¹ (1602. Jan. 19.)—Mr Robert Bruce addressed a Letter to the Town-Council of Edinburgh, which is an echo of that to the Laird of Beltries. This was followed by *George Heriot* and *Cornelius Inglis* waiting on the King, on Bruce's part; who inhibited any preaching; whereupon he left the town. On 27th January, he intimated his design to preach next Sabbath, to James Aikenhead, one of the Bailies of Edinburgh.

² Much correspondence, &c. took place, till at last the Commissioners of the General Assembly, Feb. 25, 1603, 'declared that his re-entrie to the Ministrie of Edinburgh came through his own default.'

³ To the English Crown. The King departed for England immediately after this Conference took place.

⁴ Nevertheless.

⁵ Undertook; promised largely.

Alwife he went down to the Abbey. The King was at his breakfast. Mr Robert fought occasion Apr. 1603. of speech with him, at that tyme; thinking, that in the prefence of many strangers and noble men, the King would not urge him, as he did before. The noble men courteously gave him place. But when he was upon the point of bowing and entering in conference, Sir Patrick Murray, who stood upon his Ma^s left hand, and rounded somewhat in his ear, prevented him. He was referred to the King's bed-chamber, to be heard after the preaching; which was very cold. It was made be Mr Andrew Lamb. Mr Robert, all the tyme, prayed to God to direct him be his Spirit, in the end; as he had done in the rest of that action before. He resolved noe wayes to goe to the knees, against his conscience; but rather now, in the entry to this great Monarche, to urge his Ma. with a thankfull heart to God for his wonderfull and unlooked-fore blessing. He had all the words and mater conceived, which he communicated to Mr James Melvill, Minister at Anstruther, who was weill pleased both with the mater and the maner; wherby Mr Robert was greatly encouraged to persist in his resolution. In the meantyme, the Lord Fleming cometh for Mr Robert, and taketh him to the King's bed-chamber; where he found my Lord of Marr, my Lord of Blantyre, the Laird of Dunipace, Mr Peter Hewat, Mr Thomas Abernethie. The Lord Fleming went to the Chamber of Prefence, told the King Mr Robert was in the place appointed. The King ncontinent withdraweth himself, goeth in to his bed-chamber, his boots on, ready to ryde. Soe soon as he drew neer, he walked in circle about the house,¹ as his custome was. Mr Robert casteth himself to meet him, with all reverence and humble inclination of his body that he could, without going to knee. The King heard him graciously, in outward appearance. The summe and effect of Mr Robert's words were this. 'Sir, I have marked four things in this great work, touching your Ma^s high advancement: first, that the God of heaven and earth has placed yow in all these earthly thrones, without the losse of the credite of your holy Religion and hurt of the inward peace of your own conscience: Next, that he hes placed without shedding a drop of your Ma^s blood, which is lesse nor² conscience: Thirdly, without the hazard of your Ma^s subjects purfes, which is lesse nor blood: And last of all, that he hes soe wonderfullie directed the tongue of that worthy Lady and noble Queen, together with the affections of the whole Counsell, soe that if furth of your Ma^s own bowells, they could not have conspyred more effaldly³ to your Ma^s promotion. These things crave a twofold duety of your Ma.: First, that yee take heed to your own heart, that the glory and glance⁴ of these earthly things deceive you not; that ye make them not your reward, nor place the confort and consolation of your heart in them; but rather, as they are given, use them as steppes and degrees to stepp up to the Crown that cannot fade nor faile: Next, seeing the God of heaven hes manifested his unspeakable care, in preserving soe many Crowns and Kingdoms to yow, sir, your Ma. cannot eschew the note of ingratitude, if yee extend not your Ma^s credit, and imploy your whole care, for preservation of his own kingdome.' THE KING answered, 'Mr Robert, be God's grace I fall not place my confort or consolation in them, or in any earthly thing: As for the preservation of the kingdome, if I would preserve my own life, I must study to preserve it; for we have common freinds and commone enemies: The Papists that shutt⁵ at that kingdom, shutt at my life also, as I know certainly.⁶ As touching this wonderfull mercy of God, Mr Robert, if yee be remembered I oft tymes foretold you, that God would bring this work about, after this sort;' and named some places to him. But Mr Robert could not remember.

Mr Robert took his leave; and had as good a countenance of the King, as ever he had in his life, in his own judgement. The King did not urge him with any such thing as the Lords gave out; nor made mention of any thing, tending to that purpose. Ather the mediators were unfaithful, or God putt it clean out of his heart. When the King mounted on horseback, Mr Robert went to him againe,

¹ A mode of expression for chamber.

² Than.

³ Truly, sincerely; from 'afauld,' literally one-fold.

⁴ Dazzle, splendour, glitter; literally the reflection thrown from a mirror by the sun.

⁵ Shoot, aim at.

⁶ In allusion to the numerous Conspiracies which had been devised by the Papists against his person.

Apr. 1603. to take his leave ; and was as weil received as any subject, of his calling, in Scotland. Those that stood by heard the King say, ' Now all particulars¹ are past betwixt yow and me, Mr Robert.' But Mr Robert himself could not remember that he heard these words.

(16.) *NOTES from Calderwood's Church History, MS.*

Feb. 1605. (1.) MR ROBERT BRUCE, the year of the King's departure out of the country, gott peace and rest ; but the year following he was threatned of new, for the mater of GOWRY, to be deprived of life, living and stipend. He was very farr cast down. Whill he was ryding to Stirline to fetch the Erle of Caillies to his house, it pleased the Lord that night to give him a comfortable vision in his sleep. He recommended his case to God, and soe fell asleep. He saw great difficulties presented to him, and it behoved him ather to passe through them, or to die be the way. At the last, he resolved, in God's obedience, to hazard ; and whill he was passing through, he feilleth a motion in his heart, moving him to say, in and through Michael, the Capitaine of the Lord of hosts, ' I fall prevaill, O Michael ! Michael ! Who is like the strong God !' Mr Robert was greatly comforted with this ; and putt it in write when he awaked.

This year the Commissioners of the Generall Assembly directed Summonds, warning him to compare at Edinburgh, the 27 of Februar, to hear and see himself removed from his function, in Edinburgh. He compared before them, and took Mr Thomas Gray with him. But none gott access to himself. After long reasoning, they removed him. He appealed from their sentence. They inhibited him to preach thereafter. He obeyed not. The Laird of Lowrestoun, Commissioner, had Commission to see the sentence of Removall pronounced against him.

Jul. 1605. (2.) CHANCELLOR SETON sent for Mr Robert Bruce, advertised him that he had gotten command from the King to discharge him from teaching, &c.

Aug. 1607. (3.) THE fifth of August was solemnlie kept in Edinburgh. The Kings skoll was drunken be the Duke, his Commissioner, and some other noblemen at the crosse of Edinburgh, which was covered, for the greater solemnitie. Bacchus was sett up, and much wine drunken and sweete meats cast abroad. Much vanitie and pastime, beside ringing of bells, and getting on of bale-fires. The pest brake up soon after.

(17.) *LETTER, Mr Robert Bruce to the Laird of Beltrise (Sir James Sempill.)*

RIGHT HONOURABLE COUSINE,

Feb 1603. YE most give me leave to utter my friendly counsell against you. To what purpose should ye and Mr Ewart put me in esperance of my liberty, be your Letters ? Of yours I saw only one ; and I have four of Mr Peter's, assuring me of ane comfortable issue ; and, in truth, I gave such credit, and was so certainly perswadit be him, that I sent home my wife and children, and spoiled my self of all my outward comforts, and expounded my self to the extremitie of the season, in a cold lodging, in thir miserable and barbarious parts, that I have almost extinguished both my vitall and sensitive spirits. Why would ye not signifie his Ma's will plainly unto me, or to Mr Peter either ? His Ma. pleasure should have been a law to me. Yea, if his hienes would command me to the scaffold, I have a good conscience to obey him ; and it would be more welcome to me nor this lingering death that I am in. The time has been I have done his Ma. acceptable service, as his own hand writts besides me will beare record ; whilk I fall leave to my posterity as their rarest jewels. I thank God, I was never within the compass of law ; and yett am war used nor either Papist or Atheist. Alwayes I crave noe more of you, but a Christian duty. As I prayed you in my last Letter, soe will I now ; feed me not with compliments : The worst shall ay be welcome to me, be his grace who sustaines me wonderfully. I am a

¹ Quarrels, causes of offence.

man that hes tasted of many afflictiones, and I wote not who crosses me ! But be it Papiſt or Atheiſt, Feb. 1613. Biſhop or Miniſter, I will lay over all my vengeance where it belongs. As to my prayer, in the end of my laſt Letter to his Ma., I heare, be Mr Peter Ewart, that I was quarrellit, as if I had prayed for reconciliatione in that particular. Indeed, if it had been foe conceived, I might have been juſtly quarrelled. But the Lord knowes the contrary is moſt true. I had no more mind of that Treafone, at that time, nor the bairne that is yett unborne. As to the reſt of my faults yee make in my other Letters, they are but bairnly : For ſuppoſe I wrotte unto yow with my own ſubſcribing hand, yet it is not worthie to preſent his Ma. I waill¹ the beſt hand that I can gett, and for the omiſſione of my ſubſcriptione, what marvell ? Seeing I wrott not the body. And yet the writter therof conſtantly affirms that I ſubſcrivit, whilk makes me to think that ye have not receaved my cloſed Letter to his Ma., but the copie therof, which I directed to your ſelfe to be peruſed, and not to be preſented, except ye knew it would not offend. I pray you, coufine, if ye delight in my converſatione, lett the effect declare it. Lett me find the fruit therof ; and if yee be not able, lett me be in no war caſe nor I am in, be your deid ; for that were needleſſe. Suppoſe ye have gotten new friends, men I grant that are more able to perſit you in your outward eſtate, yett I will looke that ye will obſerve a Chriſtian duty towards me. So wiſhing yow well in the Lord, I take my leave, and reſts

Your moſt loving coufine to his power, in God,

INUERNESSE, the 10 of February 1613.

ROBERT BRUCE.

No. XIX.

COLLECTION OF ADDITIONAL ORIGINAL LETTERS AND MISCELLANEOUS DOCUMENTS ILLUSTRATIVE OF GOWRIE'S CONSPIRACY.

(1.) LETTER, *George Nicolson, Queen Elizabeth's Ambaſſador in Scotland, to Sir Robert Cecil, Secretary of State.*²

IT may pleaſe your honor,

THIS daye morninge, at 9 howers at that tyde, the K.[ing] wrote to the Chancellor, Secretary, Aug. 1600. and others, and to ſome of the Kirk ; and word came lithier in this maner, and the L.[ord] Secretary told me, That yefterday th' Erle of Gowry ſent the M^r his brother, M^r Alex^r Riven, to the K.[ing] hunting in Fawkland Parke ; ſhewing the K.[ing] that where, for his adoies, he had muche troubles to git treaſor, &c. his brother th' Erle had founde in an old towre, in his houſe at St Johnſton's [Perth] a great treaſor, to helpe the K.[ing's] turne ; wth w^{ch}, he faide, his brother wolde faine have the K.[ing] to go to ſee quietly, that day. Whereon, after the K.[ing] had hunted a while, and taken a drink, he tooke freſhe horſe and diſcharged his company (to wit), the D.[uke] and Erle of Marr then in company wth him, taking onely a few wth him ; yet the D.[uke] rode, and the Erle of Marr followed, and the K.[ing] met by the way the L.[ord] of Inchclaffray, who alſo rode wth him to St Johnſton's ; where the K.[ing] cominge, th' Erle meting him, caryed him into his houſe, and gave him a good dynner ; and after went to dynner wth the D.[uke] and his company. The M^r, in the meane tyme of their dining, perſwaded the K.[ing] to go wth him quietly to ſee it ; as the K.[ing], diſcharginge his company to follow, went wth the M^r from flaithe to flaithe, and chamber to chamber, locking ſtill the doors behinde him, untill he came to a chamber where a man was, w^{ch} the K.[ing] thought had ben the man had kept the treaſor. There the M^r cleked hold on the K.[ing] and drev his dagger, ſayeing he had killed his father, and he wolde kill him ! The K.[ing], wth good wordes

¹ Select, chooſe.

² The Original is in the State Paper-Office, London.—See *Chalmers' Life of Ruddiman*, p. 113.

Aug. 1600. and meanes, fought to difwaide him; fayeing, he was younge when his father was executed, and dyvers others honest men; that he was innocent thereof; had restored his brother, and for amends, made him greater then he was; that if he killed him, he could not efchape, nor be his heir: That he prefumed Mr Alexander had learned more divinity than to kill his Prince; affuring him, and faithfully promifing him, that if he wold leave of his enterprice, he wold forgive him, and kepe it fecret, as a matter attempted upon heate and rafhenefs onely. That to thefe the Mr replied, what was he preaching? that fhould not helpe him; he fhould dye: And that therewith, he ftroke at the K.[ing,] the K.[ing] and he bothe going to the ground, that the Mr called to the man there prefent to kill the K.[ing.] That the man answered, he had nether harte nor hand; and yet is a very curragious man. That the K.[ing] having no dagger, but in his hunting cloths wth his horne, yet defended himfelf from the Mr; and in ftugling, got to the windowe, where he cryed Treafon! w^{ch} Sr Tho^s Erkin, John Ramfay, and Doctour Harris, hearing, ran up after the K.[ing], but found the doors fhut, as they could not paffe; yet John Ramfay, knowing another way, got up and in to the K.[ing,] who cryed to John he was flaine; whereon John out wth his rapier and killed the Mr. In this tyme, that th' Erle fhould tell the Duke, Marr, and the reft, that the K.[ing] was gone away, out at a back gate; that they ran out and Gowry wth him, and miffing him, that th' Erle faide, he wold go back and fee where the K.[ing] was. That he, wth 8 wth him, wth a fteele bonnett and two rapiers, ran up the ftaires; that John Ramfay, meting them wth drawn fwordes, Sr Tho^s Erkin and Doctour Harris being then comed to John, after fondry ftrokes, in the end killed the Erle alfo; Sr Thomas being hurt, and Doctour Harris mutulate and wanting 2 fingers. That this ftir being, the townes men and Gowrie's frends, in evil appearance, faid, they wold have accompt where th' Erle was, or they wold pay the grene cotes! To pacifie w^{ch} the D.[uke] and Mar were fent to the Magiftrates; and fo quieted the matter, as the K.[ing] and his company gott away; the K.[ing] thanking God for his deliverance. And yefternight, knighted, as I heare, John Ramfay and Doctour Harris; but the Secretary told it not me.¹

Upon thefe, Lettres comed from the Courte, The whole Council here convened; and in end, at one of the clock rofe, and came all to the market croffe, and there by found of trumpett intimated, but in bref, the happie efchape of the K.[ing] and their Act, that they made in Council, for the people to thank God for it; and in joy thereof, to ring bells and build bone fires. Mr David Lindfay, ftanding with the Council on the Croffe, made a pithy and fhort Exhortation to the people, to prayfe God for it; and therewth praied and praifed God for the fame; the whole Council on their knees on the Croffe, and whole people in the ftretes, in like forte. The peces of the Caffe alfo fhotte in joy; the few bells yet ringing; the youthes of the towne gone out to fkimith for joye, and bone fires to be bilded at night: And the Council to go, this tyde, over to the K.[ing,] for further deliberation in this matter. The K.[ing] at his retorne to Fawkland, prefentlie caufe thruft out of the houfe, from the Q.[ueen,] Gowrie's two fifters in cheif credyt wth the Quene; and fwears to roote out that whole houfe and name. Upon the conveninge of the Council, the portes of the towne were fhutt, for apprehendinge Gowrie's other brethren; and the lands are to be given to thefe new knights and others. This is the information and reporte comed yet hither, by the K.[ing's] command; w^{ch} fome yet doubted to be fully fo. What will follow, I remit to the fequell; being glad the K.[ing] is fafe, without hurte. Gowrie's Secretary is taken, and matters hope to be difcovered by him. Some falfe lyenge villains gave it out, I fhould have ben this day morne at Leith, by 3 of the clock, and fhould fay, being afked by one, that I was there attending ftrange newes from beyond the water. I tolde the Secretarie of it, that it was falfe, as God be thanked it is; and that if I were charged by any fuch devilifh devices, I wold refufe no debofhed fwinger or bloody villaine that fhould be fo fuborned to put doubt towards me; praying the Secretarie to remember it, and fay it for me, if he hard it. That your honor fees how the malicious here fpite me; in what danger I live, and how fubject I am to all

¹ Mr James Hamilton is this day gone to England.

accusation here; and some practising knaves wold whisper it, that this plot should be drawne and divided in other parts, [England.¹] But thus much, for this tyme, in haste, wth myne humble duty and service. I pray God preserve yo^r hon^r. Edinburgh, the 6th of August, 1600.

Yo^r honor's, &c. &c.

GEO. NICOLSON.²

I have no copie of this.

(2.) EXTRACTS *from* LETTER, *Sir Henry Neville to Mr Secretary Cecil*,³
Paris, 27th Feb. 1599—(1600.)

Right Honorable,

THE EARLE GOWRY, a nobleman of Scotland, who hath spent some time in these parts, is purposed to returne home through England; and desires to have the honor to kisse her Majesties hands, as he passeth. And because I know him well, and have had good communication with him, and therein found him to be of very good judgement, and exceedingly well affected both to the common cause of Religion, and particularly to her Majestie, and that which may concerne her honor and service, I have thought good to recommend him especially, unto your honor; and to beseech you to be a meanes, that he may receive that honour and favour that he is worthy of; that so he may depart, confirmed in that good devotion and respect which he beares already towards her Majestie. If your honor please to conferre with him about these alterations feared in Scotland, I beleve he will give you good satisfaction; and that you will finde him to be a man of whom there may be exceeding good use made. I have given him my passport, to serve him till he come to her Majesties Court, in as ample and favourable fort as I could. The rest I referre to your honor's good favour towards him; whereunto I humbly recommend him. And so, &c.

Your honor's very, &c.

HENRY NEVILLE.

THE Lord Hume purposeth shortly to returne likewise, as he telleth me, and hath already prayed my passport, which I cannot deny him. But you will be pleased to have regard to some of my former Letters.

(3.) EXTRACT *from* LETTER, *Sir Henry Neville to Mr Winwood*, London,
28th Aug. 1600.

NOW to the occurrences of these parts, you shall understand, that the Erle Gowry, and a brother of his, have been lately slayne, in Scotland, in the Erle's own house, and in the King's presence. They are charged to have conspired the King's death at that time, but God would not suffer them. They had prepared for it, to execute their desseign, although they attempted it; and so they fell into the pite themselves had digged.

This is the relation sent hither of it; which, notwithstanding, is diversely censured, according to men's divers affections. But howsoever, her Majestie hath sent Sir Henry Bronkard thither, to congratulate the King's escape, and to doe some other offices to him. There is also one Hambledown come from thence, to reside here at least for some tyme.

¹ This word is interlined. ² ' This must be allowed to be a very interesting letter; as it exhibits a striking picture of that singular transaction, at the moment, and of the manners of the times. In it we see, that the King had on a hunting-horn; that the King and his attendants wore *grene cotes*; and that the Earl of Gowrie's two sisters lived in the palace, at the moment of the conspiracy, and were in *chief credyt with the Quene*. The foregoing dispatch of Nicolson proves very clearly, that Queen Elizabeth had *no finger in that pye*, particularly when Nicolson's declarations are coupled with the subjoined Letter, from Lord Willoughby.' (No. 8.)—*Chalmers*. ³ In these and the following Extracts, it has been deemed unnecessary to give any thing farther than what relates to the Conspiracy. The above Letters to Cecil and Winwood, have been taken from that valuable and authentic Collection, *Winwood's Memorials and Affairs of State*, Vol. I. pp. 156, 249, and 274.

Nov. 1600. (4.) EXTRACT *from* LETTER, *Sir Henry Neville to Mr Wimwood*, (in cipher,) London, 15th Nov. 1600.

OUT of 205 (Seotland) we hear there is no good agreement, but rather ane open diffidence between 165 (Counfail,) the King of Scots, and his wife; and many are of opinion that the discovery of some affection between her and the Earle Gowry's brother, (who was killed with him) was the truest cause and motive of all that Tragedy.

(5.) EXTRACTS *from* LETTERS, *Sir John Cary, (son of Lord Hunsdon), Governor of Berwick, to Sir Robert Cecil.*¹

(i.)

Aug. 1600. (Aug. 10.)—THE KING has made great feareh, and lays great wait for the two younger brothers, who, by great fortune, escaped from the schools; and not daring to tarry in Scotland, they are this day come into Berwick clofely, in disguised apparel; and being brought to me, they only desire, that their lives may be safe, and they may have a little oversight here, till the truth of their cause may be known: And the pitiful case of the old distressed good Countess hath made me, the willinglier, to give my consent, for their stay here a while; till I may, by your honourable means, know the Queen's Majesty's pleasure, whether they shall stay here, or go some whither farther into the country; for they only desire the safety of their lives; and the old Countess's case is pitiful and lamentable. I beseech your honour, let me know her Majesty's pleasure, with as much speed as may be; for that I would do nothing to offend her Majesty. The poor gentlemen stole into the town this morning clofely, and I could not well turn them out again; seeing they come for refuge, to save their lives, till I know her Majesty's further pleasure therein.

(ii.)

(Aug. 24.)—UPON the receipt of your letter of the 16th August, according to the contents thereof, I did send for the tutor of the two gentlemen, the Earl of Gowrie's brothers; who, for my own part, I have not yet seen, since their coming into the town, so close have they kept themselves; as they have never yet stirred out of their chamber which they first entered into, to look abroad. I conferred with their tutor, which might be the securest way, for their own safety; advising them, for their better security, to go farther off from these bordering places, where the King might not so easily hear of them, and their being. I wished them to repair towards Richmond, or to Rippon, or to about Hull, or to some other such inland towns, out of the way, where the King might not so easily have intelligence of them; and so they to be free from the danger of their countrymen, who are very conversant upon the street-ways. He liking very well hereof, yielded willingly thereto; desiring only, for that they came very meanly in, without either money, horse, or apparel, to have three or four days respite, that they might send to their friends for money and nags, and such other necessaries as should be fit for their journey; then will they presently depart, as secret as may be; and in the mean time, they shall remain very close, till their necessaries be gotten, which will be within four days.

(iii.)

Sept. 1600. (Sept. 4.)—BEFORE this day, I could not by any means get the present Earl of Gowrie and his brother out of the town; for that they had sent to their mother for maintenance, and could not hear till now any thing from her; and now it falls out so ill with them, as she hath sent them no manner of maintenance, hoping they should have staid here still; neither dares she trust many of her servants. For if it should be known, that she did, any manner of way, either give them succour or maintenance,

¹ These extracts were obtained by Lord Hailes from the Originals, in the Paper-Office, London. According to his plan, they are modernized.—*Cecil's Secret Correspondence*, p. 161.

or any manner of help, she should presently forfeit, and be thrown out of all that she hath. Such Sept. 1600. secret search and privy spial is there through the whole country for her and her sons, as no friend either dare or can travel between them; such privy search is laid for them in all places, as almost no man can travel, in their country, but he is searched. And if I had sent them sooner away, I should but have sent them to very great danger, either of being killed or taken; for that they being very poor themselves, and having no friends, nor any acquaintance, could neither have told whither to have gone, or what to do. But, finding their necessities, and their willingness to submit themselves to any appointment, and for that I would have them out of the town, before any fault were found, I have found means, that they are furnished with some money, and are stolen privately out of the town. I have sent them, with a man of mine own, to Durham, where they shall be secretly for a twenty days, till their mother may take some better order for their maintenance; and then they mean to travel to Cambridge, and there to study for a time. They have none but themselves, and their schoolmaster with them. All the time of their being here, they were as in a prison; for nobody ever saw them, neither did they ever stir out of their chamber; so as there can be no certainty known of their being here, but only upon mistrust; and as secretly are they gone out of the town.

(iv.)

(Sept. 21.)—I HAVE even now presently received your letter of the 15th of this instant, understanding thereby the Queen's Majesty's pleasure for the Earl of Gowrie's two brothers. All that hath been said of them, touching their behaviour here in Berwick, is but furnishes and supposes, by the contrary party. For I will assure your honour, upon my faith, it could not have been better carried, nor closer handled by any creatures living, than by them, during their being here. For myself did never see them but once, and that was at midnight, only myself; and for any other, I know they kept themselves close enough; for they durst do no otherwise, they were so afraid of themselves. They went away as secretly; and to Durham they went long since, with an intent to pass onward to Cambridge, as I did before signify to your honour. So as what is now become of them, I know not, neither where they be; for since their departure, I have not heard of them any thing; so as I know not where to hear of them. Thus much I thought good with speed to certify you; that with speed there may be some course taken for their dispatch, according to her Majesty's pleasure.

(6.) LETTER, *King James VI. to Mr John Caldeleuch.*¹

TRUSTY frend, We greit you hertlie weill. We have taiken occasioun heirby, richt ernistlie Aug. 1600. to will and desire you, that ye fail not, all excusis set a part, to be at Falkland, upoun Wedynsday at evin nixt, the twenty day of this instant, for your best advys and opinion to be had, anent the planting of Kirkis of Edinburgh; the forme and maner of the univerfall thankis and prayis that fall be gevin to God, in every Congregation and Kirk within this realme, for our miraculous delyverie of that treasonabill Conspiracy, intendit laithlie aganis us, at Sanct Johnstoun, be umquile Johne Erl of Gowrie, the M^r his brother, and thair associattis; and for your advys to be gevin in sic uther, our great and wechtie effairis, as salbe particularly impairtit to you at your coming: ffor the quill, luiking precesly that nicht, that on the morne thairefter, they materis may be handellit and put to ane point; We commit you in Godis protectionn. From Halyruidhous, this xiiij day of August, 1600.

JAMES R.

To our trusty frend, Mr Johne Caldeleuch, Minister of Newburgh.

¹ Wodrow's MSS. Advocates' Library, Vol. LXIX. Jac. V. l. 12. It is proper to mention, that this seems to be one of the numerous circulars which were addressed to the Clergy, as may be seen from the preceding Extracts from the Lord High Treasurer's Books, No. VIII. See Note, p. 239. No doubt each Letter would vary from another in some minute particulars, and according to the favour the respective parties enjoyed at Court.

Aug. 1600. (7.) EXTRACTS from LETTERS, *Rowland Whyte, Esquire,*¹ to *Sir Robert Sydney.*²

(i.)

(Aug. 16.)—THE King of Scots had lately like to have bene murthired. Young Goory³ (the Erle of Gooryes brother, whom the King restored to his honour and living, and bestowed on them both, great gifts and advancements) told the King in secrete, that in the Castell, which he kept vnder the King, he found a great chest buried, of that waight which cold not choose but be treasure. He wold not presume to open yt, but in his Majesties prefence; and therefore besought him to take the paines to goe himself and see yt brooke open: Which the King did, leauing his traine below in a safe-court, and went alone with young Goorey vp the stairs, and from chamber to chamber, which Goorey locked as he went, till he had brought the King where he had appointed. And then he told the King that the time was come which he had long wished for, to be revenged vpon him for his father's death: That he had trained him to that place to kill him, which instantly he wold doe; and drew out his dagger to haue stabd him. But the King catcht him by the hand, and defyled hym to heare hym speake. Then sayd, that when his father was put to death, he was but an infant; and therefore, cold not be accessory to his death. That during his Minority, many thinges were comitted, by the Regents of his Kingdom, which he was sorry for; which appeared by the great fauors he had bestowed vpon him and his brother. Bot all wold not serue; for he strugeld to stabb him; and the King, in defence of his life, shewed a great resolution and courage; which young Goorey perceuing, called to a servant of his own, who was a partner in this Conspiracy; but he stoode still, and swore he had neither hand nor hart to kill his anointed King; and tooke part with the King, who had time then to put his head out of a window, and cryed 'Treason!' and called for speedy help! Then his traine went vp the staires, where they found the Earle Goorey, and some others, with weapons, to resist them; but they made way, with the death of the Earle of Goorey and his companions, and so rescued the King, and before his face slue the young Goorey.—LONDON, Saturday the 16 of August, 1600. By post.

(ii.)

(Aug. 26.)—HERE is one Hamelton come from the King of Scots, to reside here as his Agent, and to deliuer to the Queen the maner of the Conspiracie against his Master.—STRAND, (London,) this 26 of August, 1600.

(iii.)

Sept. 1600. (Sept. 12.)—ONE PRESTON, Capten of the King of Scots Foote-gard, a very proper and discret Gentleman, was with the Queen, sent from his Master, to deliuer more matter discovered of the Treason intended against his Maiestie by the Earle Gowrey and his Complices.—STRAND-BRIDGE, this Saturday, the 12 of Septemb. 1600.

(iv.)

Oct. 1600. (Oct. 3.)—SIR HARRY BRUNCKAR is returned out of Scotland; and from the Kings own mouth, receues the maner of the Conspiracy against hym; which is as yt is sett down in the printed booke I sent you the last week. The K. hath knighted all his servants that assisted hym out of that perill. Some displeasure the King conceanes against the Ministers; for that they wold not, in the pulpitt, preach against the horiblenes of the fact.—STRAND, Friday night, late, the 3 of October, 1600.

¹ This gentleman was employed by Sir Robert Sydney to solicit his affairs at the Court of England, and to relate to him all that took place; for which he received a salary. His Letters are minute and valuable, as they contain much private information not elsewhere to be found.

² Lord Governor of Flushing, afterwards Lord Chamberlain to King James. He was brother of the celebrated Sir Philip Sydney. See *Sydney State Papers*, or Collins's Letters and Memorials of State, Lond. 1746. Folio. Vol. II. p. 211.

³ The Master of Gowry, Mr Alexander Ruthven.

(8.) LETTER, *Lord Gray*¹ to

Sept. 1600.

SIR,

I LANDIT that fame nicht I left you laft, at eight houris, and ves in danger amongft the craiges, and never in my lyf fo feik. Heir I met v^t Thomas Hendryfone of Edinb: He hes no newes, faue of Th' Earle of Gouryes death. He tellis it in the fame forte as ye haue hard it. Ther is execute M^r Th: Cranftoun and George Craigingelt, v^t fevin honest men of S^t Jhonftoun. They ar executed, for that they ver fund to be in armes befor the rest. His man, who ves v^t him, is bootit, M^r William Rynd; and hes deponit no thing, faue that my Lord studiit Magik in Italie and France, and had fprittis. His chamberlane, who should haue flaine the King,² is yet keipit. M^r Patrik Gallouay hes preatchit all this in the pulpit of Edinb., bothe of the Magic and Treafoun; bot all vho ar dead, confessit no thing. The King, efter the preatching, fueir folemnely, that all ves treu he hed preatchit, by his faluation and condemnation. The rest of the Minifters ves preaslit to subferyue that it ves treu; bot they refusit: Yet they grantit to thank God for his Ma^{ties} delyuerance: And fo they ar banisit.

Richart Prestoun is at Loundoun; bot as yet I knou not vhat they fay to him. From Loundoun ye shall heir all. And I remaine your louing freind and coufing, GRAY.

DOVER, 28 Sept. 1600.

I forgot, amongft vther thingis that M^r Gallouay preatchit that Th' Earle of Gounry ves a dealler betuene the Pope and the Kingis Ma^{tie}: Bot the rest of the Minifters vill not beleue him.

(9.) EXTRACT *from* LETTER, *Mr Winwood to Secretary Cecil*,³

Paris, May 17, 1601.

THE Ambaffador of Scotland hath been advertifed of a dangerous practice against THE SCOTS May, 1601. KING: That lately, one called Glarnet hath been sent out of Scotland, with Letters to BOTHWELL, to hasten home with diligence, where he shall find sufficient assistance. The principal person who employed this person is THE QUEEN OF SCOTLAND; and Letters have been intercepted out of Scotland, from Mr Gray, that the death of GOWRIE should shortly be revenged.⁴

(10.) EXTRACT *from* LETTER, *Lord Henry Howard (afterwards Earl of Northampton) to Edward Bruce, (Lord Kinlofs)*,⁵

[Without date, but previous to Aug. 24, 1602.]

OUT of the Archduke's Camp, one of her Majestie's greatest commanders hath been advertifed, that Aug. 1602? a fire will break out in Scotland, before it be long; which makes Cecil to fear, knowing in what state King James stands with England at this day, that other trains, made under ground by secret pioneers, within the body of that state itself, may break out when it is least looked for. Add hereunto, the gallant maintenance of Gowrie's son,⁶ so near Scotland, and with so great shews; though no man knows from whence, beside Sir John Cary,⁷ who is holden to be very inward in that course, as certain gen-

¹ From the original in the Advocate's Library. The envelope is lost, and no trace remains in any other Letters in the same valuable Collection. It does not appear whether this Letter is from Patrick, sixth Lord Gray, or his son, the well-known intriguing Patrick, Master of Gray, who acted so base and treacherous a part in England, during the latter part of the reign of Queen Elizabeth, and the earlier portion of King James VI. The families of Ruthven and Gray were nearly related by intermarriage.

² Andrew Henderson. ³ *Winwood's Memorials*, 1. 326. See also *Pinkerton's Dissertation*, (appended to *Laing's Scotland*, (First Edit.) 1800, Vol. 1. p. 534, &c.) who strongly asserts the Queen's participation in schemes against her husband. The inferences he draws from the alleged intrigues of Queen Anne are quite fanciful; and the hypothesis he then maintained, in regard to the Conspiracy, quite untenable. *Laing* discarded *Pinkerton's Dissertation* from the subsequent editions of his History.

⁴ See Notice prefixed to the case of Francis Mowbray, Jan. 31, 1603, &c. ⁵ From *Cecil's Secret Correspondence with King James VI*, edited by Lord Hailes; who has purposely modernized the style. Cecil employed Howard, and the King Bruce, as the medium of correspondence.

⁶ Patrick Ruthven, the son of William Earl of Gowrie, whose daughter, as has been remarked before, was married to Sir Anth. Vandyke. It was he who wrote the admirable Letter to the Earl of Northumberland, published in the *Cabala*, (*Scrinia Sacra*, 4to. Lond. 1654, p. 106.) which shews talents of no ordinary description.

⁷ See Extracts of his Letters to Cecil, (5.)

Aug. 1602? tlemen in the North, making several collections of tokens visible, and words let fall, have advertised their own conceits, in consequence, with those other fears which have been formerly advertised.

The Master of Gray hath had long conference with Queen Anne; since which time his style is heaved up *colthurno altiore*, as Cicero said of Anthony. Divers of Gowrie's nearest and dearest friends have secret access to persons of great quality.¹ They keep old issues open, and feed spleen against all those that are employed and trusted in the courses of the present state; which the King's wisdom tempereth.

(11.) LETTER, *Lord Willoughby, Queen Elizabeth's Governor of Berwick, to Sir Robert Cecil.*²

SIR,

Oct. 1600. I RECEIVED your packet to Mr Hudson, the 18th of this month; and another to Mr Ralph Gray, this morning; both which I have dispatched accordingly, but such is the negligence of the posts, that the packetts are 7 or 8 dayes in coming. For occurens yt is uncertain, whether the convention hold; but the King is resolved to have bishops: The Marquis of Huntley have reconciled the King and Queen. The Erle of Mar is retired to Stirling; who hath very dishonorably suggested [to] the King, that I was privy to the practice of the Earl of Goury: his reason to induce him to believe yt was, because I gave the said Earle kind entertainment, at his being at London. Other newes hear is none, but that the contry is in very good quiet; which course I will endeavour to continue in the town, to my utmost. But such are the contentions of the Council heer, that unless Sr Will. Bowes had carried himself very discreetly, and I myself presently prevented yt, they had quarrelled in my bed-chamber, being at Council. Thus, not willing to trouble you any further, I rest

Yours faithfully assured to doe you service,

Berwick, this 21 October 1600.

P. WYLLOUGHBY.

(12.) LETTER, *Sir James Colvill of East Wemyss to Sir Edward Bruce, Lord Kinlofs.*³

COUSING,

Jan. 1603. AFTER my hartly commendation, I culd not omit thir feu lynn, that ye may know of my prosperus ariuel to this toun; desyryng you to haue my maist humble service recomendit to his lynes. It greifis me mekil, in my passing throuche Ingland, the los he hes, for the laik of sum (resident⁴) honest man, in quhom hartlie his M. might confyd; and sik as interly low him, nicht assir them selfis. For, to be plain, I dout vtheris, for causis I vil not vret. I pray the Lord grant him that grace, that he may fauour them quha lous him aboue al. I dout not bot, or now, ye haue refautit my Letter from London, desyryng earnestly to know the succes of that maiter aganis his M. I hoip, vithe the grace of God, to discouer mair in that, nor his M. hes 3it hard; as also, in findrie vther practifes aganis him, at my first cumming. . . . I man 3it earnestly request you to remember my cousing Capitane Coluill to his M., quha hes lost al his esperance, for his M. service; and hopis he shal shortly gif better prouf nor he has 3it doon. I wret to 3ow afor, tuichin Mester Dauid Foulis. Let him mak

¹ It appears, from the Letters of Nicolson to Cecil, preserved in the Paper Office, that Beatrix Ruthven, sister of Gowrie, was privately admitted into the presence of Queen Anne of Denmark.—*Hailes*. ² The Original is in the State Paper-Office, London.

³ From the Original, preserved in the Advocates' Library, Edin. (Denmylne Collections, A. 1. 31.) Colvill was then serving with reputation in the armies of Henry IV. of France. He was created Lord Colvill of Culross, Apr. 25, 1604. It is proper to mention, that his first wife was *Isobel Ruthven*, second daughter of Patrick Lord Ruthven, and sister of William, first Earl of Gowrie. His second wife, Helen Shaw, was widow of Robert Mowbray younger of Barnbogle. This connexion with the family of Gowrie, may account for the reliance placed in his information; but no farther trace is to be found of the matter, in any collection to which the Editor has had access. In an interleaved copy of Lord Cromarty's account of the Conspiracy, *Lord Hailes* remarks, 'there was another Colvill at Paris, then a spie of E. Essex (perhaps his 'cousing Capitane Coluile.)' Earl Bothwell was also then in France.

⁴ Interlined.

30u priué to the maiter, for the man is content, and defyris only the furtie of convoy. Al vther Jan. 1603. thingis, to neu occation; and my hartly commendationis to 3our brother: Praying 3ou, that this may ferue 3ou and Sir Thomas Erkyne,

I remain 3our maift loving coufing,

FROM CALYS, our first of Januar (1603').

JAMES COLUILL of Eft Weimes.

THER vas neuer fo mayny paffageris heir a vay.² I pray the Lord it be for gud: Bot hes M. hes gret caus to luik to him felf.

To my Lord, MY LORD OF KINLOS.

(12.) LETTER, *Andro Henderfoun of Latoun, Chamberlain of Scone, to King James VI, informing his Majesty of certain conduct of David Lord Scone, &c.*³

MAIST nobill, gratiouns, hie, renownit, deir Sowerane,
and my onlie confort wnder God,

IT WILL pleis 3owr Maieftie, (albeit ower bauld) all kynd of dewtie commandis me to wifite 3owr Jul. 1608. Maieftie with thir few lynnys, fen I hawe owermekill mater for me. It will pleis 3owr Maieftie to caufe stay pe paffing of the executioun of Scone,⁴ that it pafs nocht conforme to 3owr Maiefteis laft Gift: ffor, S^r, I protest affor⁵ God, sic as is prowytit pairto mereitis nocht at 3owr Maiefteis hand:⁶ And, S^r, fen I hawe thair awin hand wret, for my Warrant, I can do na lefs nor mak 3owr Maieftie frequent thairwith, quhilk 3owr Maieftie fall sic, or ellis lat me nocht hawe that grace to fie 3owr Maiefteis face. S^r, thay have gevin 3owr Maieftie ane werie improper style, faying in pair Letter, direct frome Restowne⁷ to Scotland, in pe Pakald be post, quhilk wes pe tyme I wes at 3owr Maieftie. The wordis of pe Letter ar pir; '3owr Maiefties promifes ar bot diffimulatione;' and that '3owr Maieftie is bot lyke thais that ar about 3owr Maieftie.' S^r, quhen as thay wrait fwa, iudge quhat thair speeches wilbe amongis pair familiares! And my pairt of pe Letter is, S^r, that I 'mereit rather hanging nor ony wther rewaird!' S^r, this is bot ane pairt of pe Letter. S^r, quhen this Letter wes red in Scotland, it wes na small reioyfing to pe Ruthuenis; ffor in guid faith, S^r, fkarce, quhen thai hard thais newis, that pe twa pairt of pe callay culd content jame for pryde; as fum of pair awin name quha wret pe Letter had experience of. S^r, pleis your Maieftie, feing (prayfit be God) thair is appearance of forder licht of pat Treffoun,⁸ S^r, for Goddis caufe, lat it be exactlie tryit; ffor in guid faith, S^r, be all thay traitowris fauowraris, 3owr Maieftie is callit 'pe Murtherar!' And my parte, 'ane manefuorne knaiffe!' S^r, thair is twa in particular, quhilk in guid faith 3owr Maieftie is oblisit to, wiz. Schir Jhone Moncreif and pe Laird of Bogie; ffor in guid faith, I cum newer in pe pairt, bot pair language mett me, that thay tuik it on pair confcience that quhilk I deponit aganis thay tratowris wes pe treuth. I pray God, gif 3owr Maieftie knew pe hundreth part of pe greitis I haif fustenit, pir fywe 3eiris bygane; quhat be the infamows lybellis, and speeches of thay tratowris fauouraris.

Thus taking my leif, on my kneis, craifand at pe Almightie, to 3owr Maieftie, pe Quene and Prince graces, with all the rest of 3owr Maiefteis royall posteritie, mony guid and ioyfull dayes, with a hap- pe and ioyfull refurrectioun. 3owr Maiefties most humbill and daylie oratour,

[This Letter bears no date, but
probably in July, 1608.]

ANDRO HENDERSOUN of Latoun.

To pe most nobill, gratiouns, and hie renownit Pryns, KING JAMES of Britaine, ffrance and Yreland.

¹ The date may be fixed to be 1603, as mention is made of the Duke of Savoy's attempt on Geneva. ² 'Hereawa,' in these parts. ³ From Collection of Autographs, formed by Sir James Balfour of Denmylne and Kinnauld, Bart. Lion King at Arms, preserved in the Adv. Library, Edinburgh. ⁴ This word had been originally left blank. The person whom Henderson employed to transcribe the Letter was probably kept in ignorance of the fact. Henderson inserts 'Scone' in his own hand. ⁵ Before. ⁶ Sir David Murray of Gospertie, created Lord Scone, and afterwards Viscount Stormont. He obtained the barony of Ruthven, and the lands attached to the Abbey of Scone, of which the Earl of Gowrie was Commendator. ⁷ Royston, one of the royal residences in England. ⁸ This proves the Letter to have been written previons to the Examinations, at least, before the Trial of George Sprot.

Jul. 1608? (13.) LETTER, DAVID LORD SCONE to KING JAMES VI., *exculpating himself and his nephew from the charges brought against them* by ANDRO HENDERSONE.¹

PLEIS 3OUR SACRED MATIE,

I wes conveynit heir, before my Lord of Dunbar, and confronted with Andro Henryfoine, wpoun fume wnreuerend speiches spoken be me of 3our Matie, quhilkis wer allutterly denyit, in the preſence of S^r Alex^r Hay, 3our Matie's ſecretar, that euer he had ſpokin or wrettime any thing in my preiudice, ather to 3our Matie or ony vther man leiveand; quhilk, if I haid euer hard ſpokin be ony vther man in the world, wnehallengit, I nicht bein thoelt the onlie wngrate and unworthie man in the world: Bot I leave this to 3our Matie's gracious conſideratione, what all my actiones hes bein in 3our Matie's ſervice, bothe in word and deid; quhair of I will be glaid content to be cenſuret, be my gritteſt enemyis. Now, S^r, to qualeſie the informatione of Andro Henryſonis, he hes producit ane Lettre of my brother ſoneis, direct fra Ingland to me, about the ſpace of four 3eiris and ane half ſence; at quhilk tyme, 3our Matie will be remembrit, I maid eirneſt ſute, to haue haid the fauour to have remayneit with 3our Matie, and to haue haid ſome place of credit thair; whereanent, it pleaſit 3our Matie to ſay to me, that 3our Matie wold advyſe with ſome of the Inglis Counſall, to gett ſume place to me; and at my way-comeing fra 3our Matie, I delt with ſik of 3our Maieſteis Counſall, as come vp with 3our Maieſtie, to be my freind, in abſence; ſeing all the reſt of the Scottis Counſall that come with 3our Maieſtie wer preferrit to placeis of credit (bot I): Of quhome I reſſaueit verrie fair promeiſſis, nocht only to remember 3our Maieſtie, bot to be my particular freind. And my brotheris ſone beand thair, vpone ſome vther biſſineſſe of his awin with 3our Matie, I deſyreit him to hald ſic of the Counſall, as haid promeiſit to be my freindis, in remembrance; quhilk he did, according to my Directione, and wrett heir to me to Scotland with Mr David Murray, that he had kiſſit 3our Maieſteis hand, and reſſaueit verie guid wordis and fair promeiſſis, that yee wold nocht onlie remember 3our Matie, and advyſe with pame on the meynis, how ſome place might be gottin to me. Quhilk Letter pat me in hop to beine ſend for ſehortlie thairefter: And within fyf or ſex dayis efter pe receitt of this Letter, my brotheris ſone wrett to me ane vther Letter, producit now be Andro Henderſone, wherein he affuiris me, he is certefeit, be ſum ſpeciall freindis of myne, that the fair promeiſſis that wer maid be ſum of pe Counſall, wes nothing bot diſſimulatione; and ſpeciallie of thame pat I truſtit maiſt into; for be ſum ſpeicheis that he haid hard, he ſeirit pat pei ſould rather kyth my vnfreindis, and that 3our Matie wes informeit be ſic as wer about 3ou, that I haid ſent Andro Henderſone to beg ſumthing fra 3our Matie that I could nocht mak ſute for my ſelf: And quateuir 3our Matie haid grantit to gif to him, 3our Matie wes informeit, he haid tranſſactit with me for pe ſame; and I wald gett pe ſame to my ſelf. Thir ſpeicheis beand reportit, be ſum freind, to my brotheris ſone, and he, ſeiring I nicht be moveit fra the loue I buire to Andro Henderſone, to pas his Gift, quhilk 3our Matie haid grantit to him, and that the ſamin might be layd to my chairge ſum vther day; and out of the love my brotheris ſone buire to me, he gave me this aduerteiment; and alſefone as this Letter came to my handis, I ſent it to Andro Henderſone, to the effect that he ſould tak na exceptionis of my guidwill, albeit I haid reſuiſet to pas his Gift, in reſpect of the premiſſis; bot I gaif him ſuretie that I wald deill with 3our Matie for ane benefit to him, quhilk I did; and obtenit of 3our Matie better nor Sevin hundrethe merkis be 3eir, quhilk he poſſeſſes preſentlie; quhilk wes thoelt, be maney of pe cuntrie, mair nor he meretit; 3it, in reſpect he did 3our Matie no evill, being quhair he nicht haue done it (if God haid nocht bein 3our Maieſteis better freind;) and euer ſence that tyme, I haue reteynit him in my ſervice, and hes protectit him and euer fall; and he hes haid pe commandement of all pat I haue, in theis partis. Bot 3our Matie will knaw, in the awin tyme, that pis is nocht come fra Andro Henryſone; for he wes neuer

¹ From the original, in Sir James Balfour's MS. Collection, Adv. Library.

very wyfe, and he hes loft ane guid pairt of þe witt quhilk he haid; for it appeiris he is nocht his awin Jul. 1608: man; for the quhilk I ame maift forey: And I will neuer tak me to him, for ony thing that can be reportit of me to 3our Matie; and in the awin tyme, 3our Matie will know how this comeis, fra quhome and how this pure man hes bene abuseit. Alwayis, I man leave this and all my vther actionis, bothe in word and deid, to 3our Ma^{teis} gracious confideratioun, fra the first tyme I haid þe honour to ferve 3our Matie, quhilk is threttie tua 3eiris fence; and I neuer haid caus to weyrie; ffor 3our Matie hes nocht onlie honorit me, bot gevin me all I haue in the world, and brocht me vp fra nothing; and if I fould prove vngratte and wnthankfull to fa gracious a maifter, I mereit punefment aboue all tratouris in the world. Sa wiffing 3our Matie all happines, withe þe contenance of 3our Ma^{teis} guid helthe, I reft 3our Ma^{teis} humill and obedient fervitour,

D. SCONE.

[THE envelope has not been preserved, but the letter is marked, at the top of the folding, 'L. Scone to the K.' No date is noted.]

(14.) LETTER, SIR ANDREW MORAY of *Balvaird*, to KING JAMES VI., *defending himself against the accusations of* ANDRO HENDERSOUN, *Chamberlain of Scone*.¹

MAY IT PLEIS 3OUR SACRED MAIESTIE,

I HAVE bein, be vertew of 3our heichues commandement, accusit be the Erle of Dunbar, as gif I had bein ane most ondwitfull subiect vnto 3our Maieftie, kything the malice of my hart by the vttering of onreverent speiches. 3our Maiefties informer is Androw Henderfoun, of quhom I will forbear to speak any thing, leaft I fould feim to haue no better defence nor² the accusing of my accuser. The first point of my accusatioun is, that I haue callit 3our Maiefties promifis bot diffimulatiounis; and quhatfoener may, by consequence, be inferrit vpon this point; for verificatioun quherof, he hes producit vnto the Erl of Dunbar, ane Letter, wrettin by me, from Roiftoun, the last of March, 1604, directit vnto my vncle, my Lord of Scone. The woordes are these. 'My Lord, Efter I had wrettin at lenth vnto 3our lo. with Maister David Moray, I have tryit sum thinges, quherof my dewtie bindes me to aduertise 3our lo. notwithstanding of that quhilk I wret to 3ow in my last Letter, that his Maieftie had said vnto my self, concerning 3ow; I fear it be al bot diffimulatioun.' Quhilk woordes, how far thay man be wresit befor they can prooue the thing alledgit, I am perswadit that 3our Maiefties self, without any apologie of myne, will most gratioullie confider. Neuertheles, to the end 3our Maieftie may the moir cleirly onderstand how far this malitious imputatioun dislagreis from my trew meaning, I will bot sehortlie fay this meikill. That former Letter, quherof I maik mentioun, sent be Mr David Moray, had in it tua pairts; the first, was ane declaratioun, how 3our Maieftie had not only most gratioullie admittit me to 3our presence, bot also gracit me with most fauorabill countenance; and maironer most bountifullie had givin commandement to gif me tua hundreth pund. The vther part was, that I had rememberit my vncle vnto findrie of 3our Maiefties Counsell, and sum of 3our favorites, from quhom I had refauit great proteftationes of affectioun vnto him, and as great promifis of friendship, in his adoes.³ Bot befor the wretting of this last Letter (quherof I am now accusit), I was certainlie informit, be sum of my vncles special freindes, that they from quhom I had refauit fairest woordes, wer his greateft enemies: Quhilk, monit to call their promifis diffimulat. Sa that the fence of my woordes ar very cleir, after this maner; 'notwithstanding of that quhilk I wret in my last Letter, that 3our Maieftie had said and done vnto my self, 3et that quhilk I wret concerning my vncle I tuik it al to be bot diffimulatioun.' Gif my former Letter wer as weill to the foir, to be producit vnto 3our Maieftie, as this last is, it wald maik this mater most cleir. Bot as God schal be my iust judge, I

¹ From the Denmylne MS. Advocates' Library, Edinburgh.

² Than.

³ Concerns.

Jul. 1608. haue fet down vnto your Maiestie, most trewlie, beath the contents of the one, and my meaning in the vther. Then fallowis, in my Letter, 'I knew his Maiestie to be, as they ar that be about him; and I assuir you, ye haue na fauour of them that ar in greatest credit heir.' To this I answere, that I was neuer sic a fott to think that your Maiestie was so simpill to be guidit be them that ar about you. I protest, befor God, that I had na sic meaning. I haue baith hard and sein to muche of your Maiesties wisdom and resolutionn to think sa vyld a thocht. Bot my meaning was, 'seing my vncle had no fauour of them that wer in greatest credit about your Maiestie, (the quhilk I was most certanlie mead to belieue,) therfor I greatlie fearit that their hard informatioun might muir your Maiestie agens him, he not being present to answer for him self, and hauing about your Maiestie so many enemies.' Their restis yet more in my Letter. 'I heir say that their is ane turn past heir, in fauoures of Androw Henderfoun, into the quhilk your lo. hes great neid to tak head to your proceeding; for albeit his Maiestie hes past it vnto him, I fear it be rather to try how ye behaue your self, nor for any good mynd they had to pleasour Androw Henderfoun.' Theis woordes I honp neid no apologie. Befor God I had mynd of no thing concerning your Maiestie. I knaw, and that be experience, that al your Maiesteis grantes ar and haue bein euer most frie and absolut. My only meaning was, of the advantage they that wer about your Maiestie might maik of my vncles behaviour in this matter; ffor it was directlie said, be sum of them, that he wald content Androw Henderfoun with a smal pairt, and tak the rest to him self. From this point, it will pleis your Maiestie to consider, that the grund of my accusatioun proceeds, and not from that zeal and affectioun my accuser professis to bear vnto your Maiestie: or els he had communicat this vnto your heichnes, at the first, and not keipit the sam besyds him thir four yeires and moir; and now at lenth reveilit it, be the instigationn of vther men, as him self partilly confessis. Their is no man could moir iustlie accuse me vpon this mater nor the Erl of Dumbar, gif his lo. had knawen my trew meaning; for it was his lo. of quhom I cheiflie meanit in my Letter: And I haue crauit his lo. most humbly pardoun, for that I was sa folische, vpon any informatioun, to belieue, that his lo. thocht vtherwayis nor he had said vnto my selff. Gif I durst haue presumit, vithout your Maiesties leue, I wald, with prostrating my self at your Maiesties feet, be woord, and not be Letter, mead this my most trew Declaratioun; and vnto the tym your Maiestie grant me that libertie (quhilk be thir presents I most humbly beg at your gracious handes) my hart schal neuer be pertaker of any contentment; albeit my conscience bears me witnes, that I neuer sa mekill as thocht onreuerentlie of your Maiestie, yet am I grevid aboue measur to think that any thing sould haue escapit my hand, quhilk, in the hardest construction, can be accountit for ondwetfulness agens your heichnes. Their is na thing in this world can discontent me mair than to want your Maiesties fauour; bot to want it throch my awen iust deseruing wer to me insupportabill. I wer to be accountit the most ingrate wrech that euer had lyf, gif euer I had sufferit any such thoct to haue had place within my mynd; considering the manifold fauoures your Maiestie hes schawen, baith to my self and al my kynred. Their remains yet the last point of my Letter, into the quhilk I maik sum mentioun of my Lord Secretar. My simpill meaning was, that his lo. at that tyme had not sa great fauour as he desyrit to haue had, of theis that wer in credit about your Maiestie. I will cease to trubill your Maiestie any moir, w^t my idill woordes; not dowing bot your Maiestie will, according to your accustomed goodnes, consider that the affectioun I careit vnto my vncles weill, mead me the moir earnest in my Letter; and gif their be any woordes in it onadvysit, or not weill chosin (as I do confes their is many) your Maiestie will imput them to want of witt and laik of discretioun (quhilk euer accompaneis youth,) and not to malice, quhilk I protest, in the presence of God, is as far remouit from my hart, as it stiks neir to their hart that does accuse me. Praying vnto the Eternall to grant vnto your Maiestie ane moist happie and prosperous regne, ane blissit and ane long lyff, I rest

your Maiesties most humbly and most obedient subiect,

S. ANDROW MORAY
of Baluaird.

EDINBURGH, the 13 of July, 1608.

(15.) LETTER, *Alexander Blair in Colone, to (David Lord Scone,) charging* Apr. 1610.
*Hary Ruthven with ufing treasonable expreffions.*¹

THIS is to latt your ll. wnderftand the wordis that Hary Ruthven fpak. He vas cumand downe betuix your ll. park dykis, aboue Scone; quhair he and William Wallace, feruitour to my ll. of Blantyr fell in conference about ane SPOTT, quha was execut in Edinburg at that tym. William Vallace fayis to Hary Ruthuen, 'this mater is mead cleirer nor it was.' Hary Ruthuen anfueris him agane, and fayis plainely, 'Ha! ha! THE ERLE OF GOWRY was faiklely put downe! And the King, and all that was thair that day, vas Tratenris to the Erle of Goury!' And William Vallace anfuering, forbade him to fpeik fik langage, for it wold do him evill. This I thought good to advertice your ll. that his Ma^{tie} our gratius foueran might be acquent therwith. I have fubferyvit this with my hand, and am redy, for my dewty to his Hienes, to feale it with my bluid.

ALEX^R BLAIR.²

M. G. Graham³ B. of Dumblane, vitnes to this fubfcripne.

(16.) DEPOSITIONS, *relative to the Treafonable expreffions made ufe of by*
*HARY RUTHVEN alias FREELAND.*⁴

(i.) AT EDINBURGHE, the xxvj day of Aprile 1610, IN PRESENCE of *Alexander Erle of Dunfermyne Lord Chancellor, David Lord Scone, the Prefident, Aduocat, and Schir William Hairt Juftice depute.*

ALEXANDER BLAIR in Colone, maryed, of the age of xxxviij yeiris, fworne vpoun his great aithe, being humblit vpoun his kneis, and demandit, 'What war the wordis he hard Hary Ruthuen fpeik, for the whilk he hes bene wardit thir diuers oukis bigane?'⁵ Deponis, that vpoun the aucht day of September, the yeir of God I^m.vj^e and aucht yeiris, Hary Ruthuene, William Wallace fervand to the Lord of Blantyre, and the depouner, having mett togidder in Colone, and being comeand thairfra towardis the burgh of Perth; as thay war betuix my Lord of Scones Park dykis, aboue Scone, William Wallace fayis, that 'This mater of GOWRYIS TREASOUN is maid cleirar nor it wes, be the Execution and Confessioun of one named Spott.' Vnto whome Hary Ruthuen anfuerit, that 'The Erll of Gourye was ane honnest man, and that he wes faiklely putt down!' And that 'Thay wer all traytouris that wes at his Slaichter, King and all!' Quhairupoun William Wallace replyit, 'Speik not fik language!' And this depouner faid to him, 'That is fclanderous language: You do not weele to fpeeke fik language.' And the depouner fayis, that Hary Ruthuen and the depouner wer in goode termis of freindfchip, at that time; and that Haryis wyffe and the depouner ar thridis of kin: And deponis, that Hary Ruthuen and William Wallace ar vnder very grite freindfchip and kyndnes; and that Hary Ruthuen is doar and factour to William Wallace, in this rowme of Colone; and Hary aggreit William Wallace and Agnes Seytoun, anent hir lyverent of the rowme; and that Hary Ruthuen fend to William Wallace, ane hundreth merkis, in Januair laft. Demandit, 'ffor quhat caus he concealed this mater, fra the moneth of September, quhill the moneth of Auguft thairefter, that he reveilled it to the Lord of Scone?' Deponis, that thortlie thairefter, he tauld to Henry Ratray, goode-bruther to the faid Hary Ruthuen, that the faid Henry Ruthuen had spokin fclanderous wordis of the King; and that the depouner wald haif reveillit the fame to the King, yf he wes in the cuntrey: And feing his Ma^{tie} wes abfent, that he wald tell it to my Lord of Scone: To whome Hary Ratray anfuerit, 'He will defye 50w and my Lord of Scone bothe; for he hes alreddy biddan the prwffe of

¹ From the Original, among the Warrants of Parliament, &c. General Register House. ² There is written in a very small hand, as a memorandum at the foot of this document, 'From Justice Clerk, Mr W^m Hairt this day xv dayis.' The date is likely to have been in April, 1610. ³ Mr George Graham, Bishop of Dumblane. He was translated to the see of Orkney anno 1614. ⁴ Originals in General Register House, among the Warrants of Parliament, &c. ⁵ Weeks past.

Apr. 1610. the cannoun !' And deponis, that findrie tymes, he foght the occasioun to haif tauld it to my Lord of Scone, but could not haif it; and that shortlie thairefter, he come to my Lord of Scone, being walking vpoun the Greene of Scone, and tauld him that he had some mater to commvnicate vnto him; and my Lord answerit, 'Come to me ane vther tyme and I will heir yow.' Deponis alsua, that afor that tyme, he reveilled this fame mater to Andro Henderfoun, who advist the depouner to 'tell it to my Lord of Scone; and that nane hard this conference bot Andro Henderfoun and the depouner: And the depouner sayis, that he tauld this to Andro Henderfoun, within fourtene dayis after that Hary Ruthuane spak it; and he tauld it to Hary Rattray, within ane moneth after the speiking of it. Deponis alsua, that lang afor Hary Ruthuane spak thir speeches of his Maiestie, the depouner hard him say, 'Andro Henderfoun is going to big (*build*): Lat him big quhat he will, I hoip to see the day that I fall putt him out of his house and duell in it!' And that Adame Hepburne in Scone, and David Blair thair, wer present, and hard thir speeches, quhilkis wer spokin in Sanct Johnnestoun, in Andro Boydis house thair, as thay wer come from the buryall of ane woman callit Coke, as he rememberis; and that Hary Ruthuane directit his speeches, on this mater, to the depouner, bidding him 'Go tell the fame to that fals knave Andro Henderfoun!' Deponis forder, that after Hary Ruthuane had spokin thir wordis, concerning Andro Henderfoun, that Andro Henderfoun and the depouner, being walking together on the brig of Perth, Andro Henderfoun persavis Constene¹ Hynd vpoun the brig, and left the depouner, and past to Constene Hynd; and as thay war speiking togidder, Hary Ruthuane come by, gaif Andro Henderfoun ane grite touke² and almost putt him over the brig, saying vnto him, 'You may hald out of my gait!' And this wes fourtene dayis afor the falling of the tree-bridg of Sanct Johnnestoun.

(Sic subscribitur)

ALEX^R BLAIR.

HARY FRIELAND, sumtyme callit HARY RUTHIEN,³ of the age of xl yeiris, maryed, duelland in Sanct Johnnestoun, being humblit vpoun his knees, solemnelie sworne vpone his grite oathe, and demandit, 'Yf he rememberis, that in Harvest wes a yeir, in the moneth of September, he and Williame Wallace, with Alexander Blair come from Collone to Sanct Johnnestoun?' Deponis, [he rememberis⁴] that he⁵ come frome Colloun that day, towardis Sanct Johnnestoun,⁶ and that Williame Wallace and Alexander Blair come [in company] togidder, and that [a litle afor thame] Henry Balnavis, Johnne Brown notair, [and Andro Gairdner,] and the depouner went [in company] togidder; and thay wer a large space befor Williame Wallace and Alexander Blair, and staid for thame vpoun the top of the parkis of Scone, besyde the stane brig: And that the caus of thair being at Colone, wes, for geving of feasing of the Landis of Colone to Williame Wallace; and that thai come all togidder fra Colone, in companyis, as is aforlaid [to Scone.] Demandit, 'Yf ther hes been ony grudge or evill will betuix Alexander Blair and the depouner?' Deponis, that thair hes bene some mislykeing and drynes this langtyme betuix thame, becaufe this depouner gaif information and advise to the Lady Rossy to persew Alexander Blair, for ane horse, quhillk violentlie he spulzeit and tooke from the Ladyis dochter; and becaus he assistit and fortifeit William Wallace and his tementis aganis Alexander Blairs oppressioun; and becaus the depouner wes a doar, in procuiring of Agnes Seytoun lyvrent of the rowme of Colone, in William Wallace favour. Demandit, 'Yf at that tyme of thair comeing frome Colone, he hard Williame Wallace say, that the Treasoun of GOURY wes now cleirit and maid manifest, be the Deposition and execution of one namit SPROT?' Deponis, vpoun his grite oathe, that he never hard William Wallace speik ony sik speeches; and that he never hard William Wallace name Sprottis name: And deponis, vpoun his grite oathe, that thair wes never ony suche answer maid be him to William Wallace, as is affermed be Alexander Blair; and that thair wes no kynd of conference betuix thame, concerning that mater of Goury or Sprott. Demandit, 'Yf at ony tyme, he

¹ Constantine.

² A smart stroke or blow, by pushing or running at one.

³ The Sirname was formally

abolished by Act of Parliament.

⁴ These and the following words, within brackets, are interlined.

⁵ Altered

to 'they.'

⁶ 'Perth' deleted. Being the original paper, the corrections, on reading over the Depositions to the witnesses, are of course, made by the clerk.

sayd, that he fould duell in Andro Henderfonis houffis, latt him big as he wald?' Deponis vpoun his Apr. 1610. grite oathe, that he neur spak ony fuch mater. Demandit, 'Yf afoir the falling of the brig of Sanct Johnnestoun, the depouner toukit Andro Henderfoun vpoun the brig?' Deponis, that at the tyme specifeit in Alexander Blairis Depositionn, this deponer, comeing alongis the brig, with his horfe in his hand,¹ he forgadderit vpoun the brig with Andro Henderfoun, the Perfone of Bonhard, Alexander Blair, and Constene Hynd, quho wer all standing togidder; and thay sufferit the depouner to go by thame vpoun the midis of the brig, becaus he had ane horfe; and at his by-passing, his shoulder tuicheit Andro Henderfoun, who tooke no offens thairat; and when the depouner was by² thame, Alexander Blair looked over his shoulder and sayd to the depouner, 'Yow mycht haif gevin ws the gait!'³ And that Andro Henderfoun wes angerit at Alexander Blair for thir speecheis. And deponis, vpoun his grit aithe, that he spak na thing to Andro Henderfoun at that tyme. Demandit, vpoun his grite oathe, to declair, 'Quhat is his opinioun anent GOURYIS TREASOUN, feing he wes present with the Erll in the chalmer quhair his Maiestie wes perfewit?' Deponis, vpoun his grite oathe, that he is and ever wes of opinioun, that the Erllis pairt wes worst; feing he saw the King's Maiestie haif na thing but ane hunting horne about his neck. Demandit, 'When he mett last with his bruther Alexander?' Deponis, vpoun his grite oathe, that he saw him nocht for aucht yeiris; and that the last tyme he saw him wes in Hull, in England, afoir the deceis of the Quene of England.

(Sic subferibitur)

H. R. of Freland.

ALEXANDER BLAIR, re-examinat, grantit that he met with Hary Ruthuen and Williame Wallace, at the taking of Williame Wallace feasing of Colone; and that after the giving of the feasing, Henry Balnaves, Johnne Broun and Andro Gardiner past away, and that Williame Wallace and Hary Ruthuene stayed a quhyle behind, to tak ordour with the tennentis; and then thay tua, with the depouner, come togidder.

HENRY RUTHEN, confronted with Alexander Blair, anent the forme of thair comeing frome Colone: Deponis, as ofbefoir, that Williame Wallace, Alexander Blair, Henry Balnaveis, Johnne Brom and Andro Gairdner come togidder frome Colone; and that Williame Wallace and Alexander Blair fell togidder in company; and the depouner and the vtheris perfonis foirfaidis fell togidder, and wer ever afoir Williame Wallace and Alexander Blair, whill thay come to the Hoill-brig, quhair the depouner and his company stayed for thame; and then this depouner fell in company with Williame Wallace and Alexander Blair; and that the vther perfonis foirfaidis wer within the breid⁴ of this chalmer of the tolbuith to thame, and hard every worde that wes spokin betuix thame.

ALEXANDER BLAIR deponis constantlie,⁵ that at this tyme, the vtheris perfonis foirfaidis wer the space of three pair of buttis frome thame; and that he with Hary Ruthuen and Williame Wallace wer half ane hour togidder, at that tyme, going thame selfis allone.

HARY RUTHUEN denyis this altogidder.

(Sic subferibitur)

ALEX^r BLAIR. H. R. of Frelandis.

WILLIAME WALLACE, seruand to Walter Lord Blantyr, sworne vpoun his grite oathe, being vpoun his knees; and demandit, 'Yf he knawis Hary Freeland and Alexander Blair?' Deponis that he knawis thame very weele. Demandit, 'Yf in September 1608, quhen he tooke feasing of the hanch of Colone, yf Alexander Blair, Henry Freeland, Henry Balnaveis and Johnne Broun wer thair?' Deponis, that thai wer all thair. And that efter the geving of the feasing, Alexander Blair tooke this depouner in to his house to drink; and the vtheris perfonis foirfaid went afoir, and the depouner and

¹ He led his horse over this frail wooden bridge, which must have been in a very crazy condition, and probably without ledges, for in 'tuiking' Andrew Henderson, he 'almaist patf him over the brig.' ² Past. ³ The most honourable part of the way was 'the crown of the calsay,' or middle of the street. 'To usurp this privilege was attended with as much danger, as 'taking the wall,' in the days of Addison or Sir Richard Steele. A great deal of bloodshed took place in both countries, on such trifling matters of mere punctilio, between hot-blooded 'gallants.'

⁴ Breadth.

⁵ Without varying, with constancy.

Apr. 1610. Alexander Blair followit, and our-tooke thame at a mylne, qubair Hary Freeland and his cumpany went in to drink;¹ and the depouner and Alexander Blair stayd vpoun thame befyde the mylne, quhill thay come out; and then thay come altogidder fra the milne, in company, to Scone; and drank in my Lord of Scones sellair, as the depouner rememberis. Being demandid, ‘Yf thair was ony speeche or conference betuix the depouner and Hary Ruthnen concerning GOURYIS TREASOUN or GEORGE SPROTT?’ Deponis vpoun his grite oathe, that thair was nevir ony kynd of speeche, talking, or conference amang thame, concerning that mater of Goury or of Sprott; and that the affirmatioun of Alexander Blair, in that mater, is ane vntreuthe. And denyis that haille mater, and all the circomestanceis thair of, and all that is deponit, writtin and subferyuit be Alexander Blair, concerning that particular: And deponis, vpoun his grite oath, that, as he rememberis, thair wes no privat conference betuix the depouner, Alexander Blair, and Hary Ruthuene, that day: And deponis, that he had priue conference, that day, with Alexander Blair, anent the roume of Colone; and that Alexander Blair maid ane offer of iij^m markis² for the same, quhilk the depouner refuist.

(Sic subfribitur) WILLIAM WALLACE.

ALEXANDER BLAIR, confronted with Williame Wallace, anent the conference betuix thame and Hary Freeland, in thair comeing frome Colone: The said Alexander abydis be his former Deposition, anent the mater of Gourie and Sprott; and Williame Wallace denyis the same altogidder.

(Sic subfribitur) ALEX^R BLAIR. WILLIAM WALLACE.

(ii.) AT EDINBURGHE, the xxvij day of Aprile 1610. IN prefrence of the *Examinatouris* about writtin.

ALEXANDER BLAIR and HARY RUTHUENE being re-examinat and confrontit, vpoun the speecheis past betuix Hary Ruthuen and Williame Wallace, concerning Goury and Sprott: The said Alexander Blair abydis constantlie be his formair Deposition, in that mater; and the said Hary Ruthuene altogidder denyis the same. The said Alexander Blair offerrit, in the said Haryis prefrence, to try this mater BE SINGLE COMBAT betuix thame, quhenever it fall pleis his Maiestie or Counsaill to appoint thame tyme and place; althocht it wer this same nycht: And sayis, that he is content to be hangit, yf in the combatt he move not the said Hary to confes the treuthe of this mater, as he hes deponit aganis him. The said Hary Ruthnen anfuerit, that he can not be vrgeit, be law, to fecht in suche a quarrell: And that he will abyde the ordinair tryall of the law; and refuist the Combatt.

ALEX. BLAIR. H. R. of Frelandis.

WILLIAME WALLACE, being re-examinat, abydis constantlie be his formair Deposition maid yisterday.

AL. CANCELL^R. D. SCONE. JO. PRESTON. S. T. HAMILTON. S. WILLIAM HEART.

(iii.) AT EDINBURGHE, the last day of Junij 1610. IN prefrence of the *Erll of Dumfermylne Chancellour, David Lord of Scone, Mr Johnne Prefioun of Pennycooke Prefident, Sir Alexander Hay Kingis Secretnair, Sir Thomas Hammiltoun of Bynnies Aduocat and Mr George Young.*

HENRY RATTRAY of Kincarrady, maryed, of the age of xxx yeiris, or thairby, sworne vpoun his grite aith, and demandit, ‘Yf Alexander Blair come to him, and tauld him that he hard Hary Freeland speeche some outrageous speeches aganis the Kingis Maiestie?’ Deponis, vpoun his grite aithe, that Alexander Blair nevir spak ony suche mater to him. And sayis, that Williame Wallace haveing chargeit Alexander Blair to find him law fourtie, the said Alexander Blair come to this depouner, ane moneth afoir Hary Freeland wes maid prisouner, and sayd to him, ‘Can I not be quyte of your goode-bruther? I vow to God, yf I be not quyte² of him, I fall putt ane fleche³ in his hoife⁴!’

¹ This word deleted, and five words interlined.

² 3000 merks.

³ Fr. *quité*, requited.

⁴ Fr. *fleche*, a shaft or arrow.

ALEXANDER BLAIR, being confrontit with Henry Rattray, and being re-examinat, vpoun that pairt Jun. 1610. of his formair Deposition, concerning Henry Rattray, the said Alexander, with mony aithis, abydis be his Deposition, in that point : And the said Henry Rattray, with mony aithis, denyis the same, and that thair wes nevir ony such purpos or conference betuix thame, as is contenit in that Deposition.

DAVID BLAIR in Scone, maryit, of the age of xl yeiris, sworne and demandit, ' Yf he rememberis that Alexander Blair, Henry Freeland and the deponer wer drinking togidder in Andro Boydis hous ?' Deponis, that he rememberis weele thair of, and that Henry Rattray tooke thame in, to gif thame ane pynt of wyne, they being come frome the buryall of ane woman in St Johnnestoun. And deponis, that the company falling in discourfe, ' who had the best aill in the cuntrie ?' ¹ It wes answerit, be one of the company, that ' Andro Henderfoun Chalmerlane of Scone haid the best aill.' And then Henry Freeland sayd, ' Andro Henderfoun is bying, and bigging, and conquessing. It is evill to witt quho may brooke and posses thame heirefter, for all his goode aill !' And deponis, that he directit thir speeches to the haill company ; and sayd, that ' he caird not quha wald tell it to Andro Henderfoun.' And the depouner rememberis not that he called Andro Henderfoun ' ane fals knaif ;' bot sayis, ' he gaif evill wordis anew.' And sayis, that the Parfone of Bonhard wes present, and hard thir specheis.

CONSTANTYNE HYND, in Brigend, vnder the Baillie of Errole, maryed, of the age of xl yeiris, sworne and demandit, ' Yf he rememberis, that a litle afor the falling of the tree-bridge of Perth, this depouner, Andro Henderfoun, and Alexander Blair wer walking togidder vpoun the bridge ?' Deponis, that he rememberis very weele thair of ; and that in the meantyme, Hary Freeland come alongis the bridge, with ane naig in his hand ; and the deponar, with his company, having thair bakis to Hary Freeland, he said to thame quhen he come to thame, ' Gif ws the gate !' And in his by-ganging, the passag being narrow and frait, the depouner is of opinioun that he rubbit klokis with Andro Henderfoun, and past by without ony forder specheis. And deponis, that Alexander Blair sayd to Hary Freeland, when he wes by, ' The half of the gait mycht haif served yow, when yow crapt vnder the boorde !'

AL. CANCELL^s. D. SCONE. ALEX^r HAY. S. T. HAMILTON.

NO. XX.

LETTERS OF JOHN, EARL OF GOWRYE.

[THE following Letters of JOHN EARL OF GOWRYE, are the only specimens of his literary compositions now known to be extant. The original of the Letter to King James VI. was presented to the College of Edinburgh, by Drummond of Hawthornden, in 1626 ; but it has unfortunately been either mislaid or lost, (with other autograph Letters in the same Collection,) subsequent to the year 1757. About that time, it had been transcribed and published by Sir David Dalrymple, Lord Hailes, in a reprint of the ' Account published by authority,' (No. IV. of the present Collection of Illustrative Documents,) and which was intended by him to serve as a specimen of his projected Collections relating to the Gowrye Conspiracy.

The other Letter is preserved in a volume of Original Papers, collected by David Calderwood the historian, who was a fellow-student, under Principal Rollok, with the Earl of Gowrye, at the College of Edinburgh ; where they took the degree of Master of Arts, in 1594. At the time of writing these Letters, the Earl was in his 17th year, prosecuting his studies at Padua. They are also given, pp. 351-6, of the valuable ' Miscellany' of the Bannatyne Club. A fac-simile of the Earl of Gowrye's subscription to the last of these interesting reliques concludes this Collection of Papers.]

¹ ' Toun' is deleted.

Nov. 1595.

1. LETTER, *the Earl of Gowrye to King James VI.*

PLEASE YOUR MAJESTIE,

GIF the bestowing of great benefites fould moue the receauers theroff to be thankfull to the giueris, I haue mony and extraordinar occasionis to be thankfull to your Majeste; not only being fauored with the benefite of your Majesteis gude countenance at all tymes, bot also that it hath pleasit your Majeste to accept fo weill of me, as to honour me with your Majesteis most louing letter, as with ane certane signe and vine testimonie of your Majesteis gude fauor and gracioufnes tonartis me; wheroff I esteeme so much, that I wald think my selff very hapie, if it fould please your Majeste to comand me in any thing, that therby your Majeste might haue ane tryall of my prompt and fathfull obedience; for your Majesteis worthines and valor, attour the particular courtesis schauin to me, merits whatsomeuer I am able to do, and ane hundreth thousand tymes more. In end, I pray your Majeste to haue me excused that I haue taine the audacitie to wrett againe to your Majeste, for not hauing the comfort of your Majesteis prefence, could not declare my willing mynd better then be vsing of the nixt remede. In the meane tyme, I fall repose my selff still on your Majesteis constant fauor, quhill God of his mercie grant that I se your Majeste in fuche ane gude estate as I wishe, whilk will give me the gretest contentment of all.

Sua crauing earnestly of that Creator of all thingis to blifs your Majeste with all felicitie and satisfacione in health, with ane increas of mony prosperous dayis, I kifs most deuotly your Majesteis hands.

Your Majesteis most humble subiect and obedient seruitor in all deuotione,
GOWRYE.

ATT PADUA, the 24th of November 1595.

2. LETTER, *the Earl of Gowrye to Mr Johne Malcome, Minister at Perth.*¹

Ἐυλογητον εἰω το ονομα τε θεε εις αιωνα.

BELOVED BROTHER,

HAUING taken occasione to wret to Scotland, wald nocht omitt my deutie to you, in visiting you with this letter, that therby ye myght vnderstand of my present estate, quhilk continues as ofbefore; praising God, from my hairt, that of the riche abundance of his gude grace and mere mercie hes maid the beames and licht of his countenance, to shine vpon me most fauorably; to be ane guide to conduct me faillie *per hunc Auernum*, quherin mony here, (*quorum oculi densa*

¹ Mr John Malcolm, one of the Regents, and afterwards Principal of St Leonard's College, St Andrews, was ordained Minister of Perth, 4th November, 1591. He was the author of a Latin Commentary on the Acts of the Apostles, a work of considerable learning, printed at Middleburgh, 1615, 4to. He died at an advanced age, at Perth, 3d October, 1634.

caligine et nebulis obfuscati sunt,) *ô miserum spectaculum !* are drowned, in his Nov. 1595.
 iustice; I meane nocht all, *absit*; for I am acquainted with diuers heir, *qui, etiam inter has paludes fligias*, hes neuer boned ther kne to Baal: Qubat ane meruell is this? and quha can beleue it? and zit it is certanly true; *glorificetur igitur Deus in operibus suis, ac eo magis quo sunt mirabilia et παρὰ τὴν φύσιν.*
 There wes ane notable exemple of constancie not long ago, in ane Silesian Minister, of some threscore yeares and mair, quha, efter he had beine deteined in prison about nyne yeares, and the Jesuites had trauailed with him to recant; bot perfaiffing that thei could preuaile nothing at his handis, caused bring him to the fyre, lyke bludie dogges; quhere, efter he had maid ane excellent discours and harang to the people, shauing them the gret honour he wes callit to in suffering for Christes sake, and exhorting them to conuersione, abode most patiently, without ony shrinking, all tormentis; magnifeing Godis holy name, and praying that ther sinnes mycht be forgiuen them. Efter he wes brunt, not being zit satisfied of the crueltie that they had vsit against him, quhen he wes liuing, did cast ane gret heap of stones vpon his ashes, *multo scēiores quam erant Iudei aduersus Stephanum.* There were vtheris, quha for feare of death, at that same tyme, maid filthie apostacie fra the true Religione to that damnable idolatrie; and at that instant that ane of them begane to deny Christ, in making defectione, there isshued blude out of his nose in suche gret abundance, that all did see him thocht he sould have dyed presentlie. This wes ane visibill signe of the hand of God, that chopped on him quha had done such ane villanie against his conscience, for to purchase his auin lyffe, quhilk he wes not worthie to bruik, be the los of his soule. Bot thir renegates not the les escaped not their auin punishment, for they all were fend *ad triremes, ubi non vnus hore spatio vitam finituri, sed morientes semper, nec tamen morientur.* Laitlie, efter these thingis, ane certane Inglishe man, being moued on zeale to cast ther *sacra hostia* (as thai most falslie callis it) out of the priestis handis, that wes careing it in processione, to the grund, and to stramp on it with his fete, wes apprehendit and denudit of his clothes, thereafter ane hude putt on his heade, quheron wes painted the deuils image, and some with bleasis, quha brunt him continually in the backe and brest as he walked forduart; bot he, in the meane tyme, wes occupiet in schauing the people how thai were schamfullie abused by these miscent idolaters, quha were leading them to their auin damnatione. In end, he spake with such ane vehemencie, that the enymies caused knett his toung, fearing some vprorre to enfeu, if he had gottin ony forder libertie to speke: So he wes brought to the place of executione, quhere, lifting vp his eyes to heauen, and on his knees kissing the chain he wes bund with, they caused first cut of his hand for the fact he had committed, and nixt burne him quicke. All thir thingis were done in Rome,

Nov. 1595. that mother of all vyce, and hoorishe synagof of deuils. I am fory that my abfence will not permit me to kyth my mynd and gudwill, in helping to fett furth Godis glorie there, *cui totus ex animo incumberem*; bot quhen, at his gude pleasure, I retorne, fall with his grace, indeuore my felff to amend quhatsomeuer is omitted for laike of my prefens. I thank 3ou most hartfully, of 3our remembrance of me in 3our prayeris; defyryng 3ou earnestlie to contineu, according to the loue 3e cary to the faluatione of my foule. Thus, remembering my loving commendationis to 3our felff, with the hail nychtbouris of the toune, Committis 3ou with them all to the protectione of the Omnipotent.

Youris aluayis affectionat,

GOWRYE.

AT PADOUA, the 28 of Nonember, 1595.

I DOUT nocht bot 3e haue hard, long fince, of the Papes benedictione given to the King of France; quhilk hes turned to ane maledictione. No vther neuis occurris heir for the present; bot nou agane, latlie, there is some Inglishmen put in the hous of Inquifitione, in Rome.

To my beloued brother, MR JHONE MALCOME, Minister at PERTH.

No. XXI.

FAC-SIMILE OF THE SUBSCRIPTION OF JOHN EARL OF GOWRYE.

Yours aluayis affectionat.
J. Gowrye

[*Mr Williame Hairt, Justice-Depute.*]

Writing Slanderous Pasquils against the King, &c.—Sedition.

Oct. 10.—FRANCES TENNENT, merchand burges of Edinburghe.¹

[THE TRIAL of Francis Tennent forms one of the series, in a black catalogue of Cases, which must leave an indelible stain on the character of King James VI. Owing to the scrupulous care adopted

¹ On the margin, 'Convictus et Suspendus.'

by the Lord Advocate to suppress these offensive papers, the precise nature of the Pasquils alluded to, cannot now be correctly determined. The likelihood, however, is, that besides ‘detracting’ the King and his ‘maift nobill progenitouris,’ and publicly branding the King as the ‘Sone of Seniour Davie,’ (a popular *soubriquet* for his sacred Majesty,) these offensive squibs had contained matter relative to the recent Conspiracy of THE EARL of GOWRIE. Such a conjecture is fortified by the circumstance of the well-known Mr Robert Bruce and Mr John Davidson, the persons to whom the Pasquils are fictioniously addressed, having publicly asserted the story of the Conspiracy to be an entire fabrication, and that the Murder was devised and perpetrated by the King and the Court faction, to rid themselves of a powerful rival.

After a minute and careful search, the Editor has not been able to obtain copies or fragments of these papers, or to get even a tolerable abstract of their contents. The only light we obtain from any contemporaneous writer, is from that amusing and minute Chronicler, Robert Birrell; who only ventures to say; ‘The 8 of October, *Frances Kennaird* hangit at the Croce, for Treaffone aganis his Maieftie, for making of Plakketis and wreittis, sic as Cokkolentis.’¹ The latter part of this mysterious intimation would lead us to believe, that these pasquils contained, amongst other satirical remarks, reflections on the Queen’s conjugal infidelity. It is certain, at all events, that this shot took effect; and it is equally clear, that his Majesty retaliated, in a most ungenerous and cruel manner. In the course of investigating the public Records, &c. the only notice which the Editor observed, was in the Lord High Treasurer’s Accounts; where, in the month of October, the following entry is made: ‘ITEM, to the Officeris of Justiciare, for summoning of ane Affyis to Francis Tennent, xlf.’

Should the Editor, afterwards, be so fortunate as to obtain inspection of these papers, or authentic contemporaneous transcripts, amongst the MS. Collections of Thomas first Earl of Haddington, then Secretary of State, Lord Advocate, &c. or from similar sources, they shall be given in the Appendix.]

Dilatit for false, malicious and vndeutifull wryting and disperfing of sklanderous, calumnious and reprochefull Letteris, to the dishonour of the Kingis Maieftie,² his hienes progenitouris, Counsale and proceedingis; conform to the Dittay, produceit (by) Mr Thomas Hammiltoun Aduocat to our fouerane Lord.

DITTAY against *Frances Tennent*.

FRANCES TENNENT, merchand burges of Edinburgh, 3e are Indytit and accufit for pe fals, malicious, vndewtiefull wryting and disperfing of sklanderous, calumnious and reprochefull Lettres, to pe dishonour of pe Kingis Maieftie, his maift nobill progenitouris, counsale and proceedingis; and steiring vp of feditioune and contempt in pe haitis of his subiectis, aganis his Maieftie; in maner, substance and effect contenit in twa of 3our Lettres writtin, heirwith produceit, and vfit as ane pairt of 3our Dittay; The ane of the saidis Lettres, writtin with 3our hand, and subferyuit be the feingzeit name of ‘JAMES SYMPSONE, SCOLLER,’ and directit ‘to Mr Robert Bruce,’ off the dait, at Newcastle, pe xvij day of Januar, the 3eir of God Im.Vc.lxxxxvij 3eiris; and the vther, lykewyis writtin with 3our hand, and subferyuit with the feingzeit name of ‘JOHNE STRATHAUCHIN;’ and directit vponne the bak, ‘to Mr Johne Davidfounne;’ Quhilkis twa Lettres, 3e laid doune in the Kirke of Edinburgh, to the effect the samyn mycht haif fallin in the handis of the pepill; thairbye to bring his Maieftie in contempt, and fleir vp his pepill to feditioune and difobedience; exprefslie aganis the Lawis and Actis of Parliament maid aganis Lefing-makeris and authouris of feditioune and infamous speicheis and writtis. Quhilk 3e can nocht deny; Lykeas, 3e haif confest pe samyn, be twa feuerall Depofitionis, subferyuit with 3our hand.

¹ Perhaps for ‘Cokkoleingis,’ cuckoldings. ² See Cases of Diksoun, Aug. 3, 1596; Cornuall, Apr. 25, 1601; and Ross, executed Sept. 10, 1618.

The Aduocat produceit his Maiesteis Warrant, for persute of Frances Tennent.
The said Frances Tennent produceit certane

DEFENSES, *in writt, aganis the Dittay*; quhair of the tennour followis.

‘IT is alledgeit, for þe pairt of me Frances Tennent, that na proces aucht to be gevin aganis me, in þe Criminall actione persewit be my Lord Aduocat contrair me; becaus I am nocht deprehendit, *in recenti crimine*, bot is convenit vpoun ane deid, alledgeit done thre 3eir since or pairbye: And conforme to the Actis of Parliament, I aucht to be summond vpoun fyftene dayis wairning, and ane copie of þe Dittay gevin me; quhilk is nocht swa done; bot I am summarlie presentit on pannel, without ony citatione preceding. Secundlie, gifand¹ 3our lordship wald proceed aganis me the said Frances, nochtwithstanding the alledgeance foirsaid; 3it I aucht to haif ane copie of þe Dittay, and ane day assignit to me, to ansuer þairto; seing I am convenit on my lyffe; And gude ressonne vald I had ane day to be avyfit pairwith; And to remember the Dittay to be speciall, anent the cryme; And to allege, that speking generallie, without coursing,² is na lawfull cause to tak ane mannis lyffe. Thridlie, alledgeit, the Law Intitulat ‘*Si quis Imperatori maledixerit*,’³—and produceit the buik to instruct the Law, quhilk is ane Defence to me the said Frances in this caise.’

It is ansuerit be my lord Aduocat, that the alledgeance aucht to be repellit, in respect of the Dittay contening the cryme of Seditioun aganis the Prince, quhilk may suffer na delay. As to the last Defence maid vpoun the Law, ‘*Si quis Imperatori maledixerit*,’ the samin aucht to be Repellit, in respect of the Actis of Parliament maid anent the crymes lybellit; ordaning the authouris of sklanderous speichis and writtis aganis the Prince, his progenitouris, Counfall or proceedingis, to be puneist to the death.

The Justice findis proces: Quhairvpoun the Kingis Aduocat askit instrumentis.

The samin day, twa Letteris being produceit be the Aduocat, maid and writtin be Frances Tennent, togedder with his Depositionis; the said Frances acknowledgeit and confessit in jugement the samyn to be his handwrit: Quhairvpoun the Aduocat askis instrumentis; and in respect thair of, and of the ij^e and fyft Act of the Kingis xiiij Parliament, and vther Actis thairin mentionat, protestis, gif the Assyis clenge the said Frances, for Wilfull Errorr.

The Aduocat produceit

HIS MAIESTEIS WARRANT to pronounce dome aganis *Frances Tennent*, in maner following:

¹ Giving or granting, that your lordship, &c. ² ‘Curfing’ had been originally written, and is deleted in the record, to make way for the *improved* orthography ‘courfing.’ ³ Codicis, lib. 9, tit. 7, l. unic. ‘Quoniam si id ex levitate processerit, contemnendum est: Si ex insania, miseratione dignissimum: Si ab injuria, remittendum.’

REX,

JUSTICE, Justice Clerk and your Deputis, We greit you weill. It is our will and We command you, that youne be fycht heirof, ye pronounce the dome following, youne frances Tennent burges of Edinburgh, efter his convictionne, of the forgeing and casting doune of certane seditious Pafcallis:¹ That is to say, that he fall be takyn to the mercat croce of Edinburgh, and his tounge cuttit out at the rute; and that thair false ane paper affixit youne his brow, bering, that he is convict for forgeing and geveing out of certane vyild and seditious Pafcallis, detracting us and our maist nobill progenitouris: And thairefter, that he fall be takyn to the gallous and hangit, ay quhill he be deid:² As ye will answer to us youne your offices and obedience: Quhairnent, thir presentis false your Warrant. Subscryuit with our hand, At Lynlythqhw, the xxij day of September, 1600 yeris.

(Sic subscribitur)

JAMES REX.

The said Frances produceit ane vther Warrant, subscryuit be his Maiestie, dispensing with the former Warrant, quhair of the tennour followis:

REX,

JUSTICE, Justice Clerk and your Deputtis and Aduocat, We greit you weill: forsamekill as, albeit be our vther Warrant direct to you, We commandit you to put frances Tennent to the torture of the buittis; and pairefter to pronounce dome aganis him, that he fuld be careit to the mercat croce of Edinburgh, and pair his tounge to be cuttit out, and syne hangit: Nochtwithstanding, for certane causes moving us, We haif thocht gude to mitigat that sentence, be dispensing with the tortoring of the said frances, other³ in the buittis, or be cutting out of his tounge; and ar content, that ye onlie pronounce dome aganis him to be hangit, without any forder: Quhill We command you to do, be thir presentis; and to forbeir the said tortour. Quhairnent thir presentis false your Warrant. Subscryuit with our hand, At Dundie, the xxvij day of September, 1600 yeris. (Sic subscribitur) JAMES REX.

VERDICT. For the quhill crimes, the said Frances was put to the knowledge of ane Affyis,⁴ &c.; and (they) being throuchlie avyfit thairwith, reenterit agane in Court, quhair thay, be the mouth of George Dowglas, callit of Bengowre, chancellor, fand, pronounceit and declarit the said Frances to be fylit, culpabil and convict of the dittay abouewrittin, and crimes thairin contentit.

SENTENCE. The Justice-depute, be the mouth of Robert Galbraith, dempstar of the said Court, Decernit and ordanit the said Frances Tennent to be tane to ane Gibbet, befyde the mercat croce of Edinburgh, and thair to be hangit quhill he be deid; and all his movabill guidis to be escheit and inbrocht to our sowerane lordis vse, as convict of the saidis crimes.

NOTA. Immediatlie efter dome pronounceing, Mr Thomas Hammilton take vp the tua Lettres, writtis and Pafcallis, the ane direct to Mr Robert Bruce, and the vther to Mr Johne Davidfone, Ministeris; quilkis twa Pafcallis he vald nocht haif insert in proces.

¹ Pasquils.

² This seems to be a dreadfully severe and barbarous sentence, when compared with the trivial nature of the offence; and marks a shockingly vindictive spirit on the part of the King. The case of Archibald Cornuall, Apr. 25, 1601, is another of many melancholy instances of the sanguinary temper of James VI. in all instances of infringement on his kingly dignity. Although the application of the torture, and cutting out of this unlucky libeller's tongue, were ultimately dispensed with, certainly the punishment was vastly disproportioned to the measure of the offence. The recent Conspiracies may perhaps have induced the King to make some severe examples; and poor Francis Tennent was offered up as the first suitable victim. Independently of his wounded kingly dignity, the wealthy burgess's *escheat* had proved too great a bait to James's cupidity, to admit of his passing scot-free.

³ *Outther*, either.

⁴ Consisting of merchants of Edinburgh, but persons of no note.

Purchasing Poison—Poisoning Fowls.

Nov. 5.—THOMAS BELLIE, burges of Brechin, and James Bellie his sone.

Dilatit and accufit for contravening of our souerane lordis Actis of Parliament for bying, haifing and keping of poyfoune; mixing the samyn with daich,¹ and casting doune thairof in Jonet Clerkis 3aird in Brechin, for destructione of fowlis; be the quhilk poyfoune they distroyit to the said Jonet twa hennis. And being persewit be Mr Robert Lyntoune, substitute for Mr Thomas Hammiltoune, aduocat, for the said cryme, they refusit to pass to Assyis, bot come in our souerane lordis will for the said cryme: Quhairvpoun the said Mr Robert askit instrumentis.

The Justice continewis the said dyet to the morne.

Nov. 6.—Continewis *in cras*, the sevint of November.

Nov. 7.—Comperit Mr Johne Marschell, Minister of Brechin, and produceit his Maiesteis will; quhairof the tennour followis.

REX,

WE, vnderstanding that Thomas Bellie, induellar in Brechin, is become in our will for haifing and keping of poyfoune, and poysoning thairwith of certane hennis: Thairfoir we declair our will as followis, to wit; That the said Thomas fall, within the space of fourtie dayes, remove and depairt furth of our realme, and remane as a exylit and baneist persoune furth pair of, during all the dayis of his lyffe; vnder the pane of deid: Commanding heirbye our Justice, Justice Clark and thair deputtis, to pronounce and delyuer pis our Will, iudiciallie; and cause regitrate the same in our buikis of Adior-nall. Subseriuit with our hand, At Halyrudehous, the saxt day of Nouember, 1600.

(Sic subseribitur)

JAMES REX.

SENTENCE. According to the quhilk, the Justice, be the mouth of James Lowrie, dempster, Ordanit the said Thomas, within the space of fourtie dayis, to remove and depairt furth of this realme, as ane exylit and baneist persoune, furth thairof, during all the dayis of his lyfytyme; vnder the pane of deid.

Slaughter.

Nov. 12.—WILLIAME HOME of Ballicafs.

Dilatit of airt and pairt of the Slauchter of vmq^{le} Mr Alexander Dikfoune, sone to vmq^{le} Robert Dikfoune elder of Haffingtoune-maynis; committit the xxj day of Aprile, 1597 yeiris.

PERSEWAR, Johne Dikfoune.

THE Justice continewis this mater, to the saxt day of Marche nixtocum. 'Plegio, Wilelmo Home de Ballandyne.'

[*Mr Williame Borthuik, Justice-Depute.*²]

Namesucken — Forcible Abduction — 'Rapt and Ravingh.'

Jan. 13, 1601.—JOHNE KYNCAID of Craighous.

[THE CASE of Kyncaid of Craighous, which follows, affords a lamentable instance of perversion of the ends of justice, while, at the same time, it contains a most amusing illustration of the cupidity and

¹ Dough.

² He also officiated on Nov. 20, 22, 25, Dec. 17, and Jun. 7.

meanness of 'King Jamie the sapient and fext.' At this period, it was by no means an uncommon thing, in Scotland, to make short courtships with heiresses and rich widows, by 'captivating' them by a *coup de main* and getting married, according to the briefest form recognized by the laws of the land; and, no doubt, some of these unceremonious courtships, in the long run, proved happy to all parties. The Laird of Craighouse, a Cadet of the ancient family of Kincaid of that Ilk, in Stirlingshire, (as were the Kincaids of Warriston, Craiglockhart, Coates, &c.) was possessed of considerable wealth. From the whole complexion of the following story, it appears pretty clear, that this luckless gallant had been regularly *trained* to carry off a certain buxom 'wedo.' It is not even alleged in the Dittay, that any violence had been done to the lady, farther than the fact of carrying her off. Perhaps it may be thought by no means improbable, that the Bailie of the Water of Leith, out of whose house she was said to have been carried, in the face of open day, was one of the parties concerned in *facilitating* the 'abduction;' for it is very unlikely, that a 'wedo' could be thus forcibly taken, (after breaking up the doors of her dwelling,) and that she could, by any ordinary force, be carried, against her inclination, through the Village of the Water of Leith, and also through a populous part of the country, in the immediate vicinity of the City of Edinburgh, to the foot of the Braid hills, where Craighouse is situated; without raising the hue and cry, and being released, ere she had been carried a couple of miles. But it is still more incredible, that the perpetrators of this outrage should, in addition to the palpable indiscretion of committing this crime in broad daylight, be such bunglers, as 'all by accident' to ride into the heart of the King's hunting party! The *machinery* of the imprisonment, trial, and subsequent proceedings, were admirably contrived to practise on the fears of the unlucky Laird; until, at length, he fell into the snare which was so craftily laid for him—he 'become in our fouerane lordis Will!' It appears from the Acts of the Privy Council, that, on Dec. 18, 1600, 'John Kincaid of Craighous (was) committit to waird, within the Castell of Edinburghe; thairin to be detenit, vpoun his awin expensis, ay and quhill he be presentit to the Justice,' &c.; and the matter, as is proved by the Books of Justiciary, was hung up till Feb. 17, 1601; all which time poor Kincaid lay 'in durance vile,' and was finally forced, by *squalor carceris*, to accept of almost any terms. This 'Will,' it may be affirmed, is *matchless*! A fine of *two thousand five hundred merks* is imposed, which, considering the relative value of money at that time, was an enormous sum. To wind up the transaction, the King demands the Laird's *guid 'broune horfe'*, to quench the remainder of his wrath; and perchance the King would think, with the reader, that 'the rapt of Craighous' was the best day's sport he had had for many a year.]

Dilatit of airt and pairt of the Rapt and Reveifching of Iffobell Hutchefoun, wedow; taking of hir captine, &c.

PRELOQUUTOUR for the pannell, Mr Johnne Drowling.

PERSEWAR, Mr Robert Lyntoun, substitute, for the aduocat.

The quhilk Johnne Kincaid of Craighous, hauing enterit on pannell, declarit, that he will becum in his Maiefties will, ffor taking of Iffobell Huchfoun, wedow, his hienes frie leige furth of Johnne Johnestounne, baillie of the Watter of Leithis hous, and taking of hir to his awin hous of Craighous; committit the xvij day of December last.

(Signed) JOHNE KINCAID.

DITTAY *against Johnne Kyncaid of Craighous.*

FORSAMEKLE as he, with conuocation of the persons vnderwrittin, and diuerse vtheris our fouerane lordis leigis; To wit, Robert Kyncaid, fone to

Edward Kyncaid, burges of Edinburgh, David Watfoun, sister-sonne to Johnne Johnestoun, baillie of the Water of Leith, Johnne Watfoun, his seruand, Alexander Barcar, baxter in Edinburgh, Johnne Qubippo, baxter thair, and Williamne Hepburne, with diuerse vtheris his complices, of his speciall convocating, causing, command and directioun, laitlie, vpoun the xvij day of December lastby-past, being bodin in feir of weir, with swordis, secreitlis and vtheris wappynnis, *invasiue*, contrair the tennour of our souerane lordis Actis of Parliament, come to Johnne Johnestoun, baillie of the Water of Leith duelling-hous thair; quhair Iffobell Huchfoun wedow was, in sober, quyet and peceabill maner for the tyme, dredand na evill, harme, iniurie or persuit of onye personis, bot to haife levit vnder Godis peax and our souerane lordis: And thair, he way of hamefuckin and conuocatioun of our souerane lordis liegis, as said is, violentlie and forceablie brak vp the duris of the said duelling-hous, enterit thairin be way of deid, and pat violent handis in the said Iffobellis persoun, tuke hir captiue, rest, reueischit and tuke hir away with him to his place of Craighous; quhair he detenit hir, quhill his Maiestie, being vpoun the feildis, accompaneit with Johnne Erle of Mar, Sir Johnne Ramfay and diuerse vtheris, his Maiesteis domestik serwandis, heiring of the committing of sik ane horribill fact, directit the saidis Johnne Erle of Mar, Sir Johnne Ramfay and diuerse vtheris his hienes serwandis, to follow hir, and to releve hir furth of his handis; quha haifing cum to his place of Craighous, and requyring for hir relive, he refusit to grant the samyn, quhill thay manassit to bring his Maiestie about his said house, and raise ffyre thairin; and fwa compellit him to releve hir: Committing thairbye, Rapt and Reveisching of the said Iffobell, Hamefuckin, Convocatioun of our souerane lordis liegis; and hes tressonablie vsurpit his hienes auctoritie, in taking and violent and forceabill detening the said Iffobell his frie liege, expres contrair the lawis and Actis of Parliament; and he being airt and pairt thairof: Quhairbye he hes incurrit the panis, contenit in the said lawis and Actis of Parliament; quhilkis fuld be execute aganis him, with all rigour.

Continewit to the morne, the xiiij day of Januare.

[*Mr Williame Hairt and Mr Williame Borthuik, Justices-Deputes.*]

(Feb. 17.)—The quhilk day, Johnne Kyncaid of Craighous, being enterit on pannell, appointit to heir and see our souerane lordis Will declarit, in the quhilk he become, in ane Court of Justiciarie, haldin in the Tolbuith of Edinburgh, the xiiij day of Januar, the yeir of God I^m.Vj^c. and ane yeiris, be Mr Williamne Borthuik, Justice-depute, for taking of Iffobell Hutcheounne wedo, his hienes frie liege, furth of Johnne Johnestoun, baillie of the Water of Leith hous thair, and taking of hir to his awin duelling-house thair; committit the xvij day of December lastwas:—Comperit Mr Williame Brois, seruitor to Alexander Mas-

ter of Elphingstone, Thesaurer to our sowerane lord, and produceit ane Warrant direct to the Justice, Justice Clark and thair deputtis, contening his hienes Will; and defyrit the Justice to pronounce and declair the said Will, according thairto; and to cause insert the samyn in the buikis of Adiornall, to haif the strenth of ane Act and decreit thairof. The quhilk Warrant being red, the Justice pronounceit his hienes Will conforme to the tennour thairof, and ordanit the samyn to be insert and registrate in the buikis of Adiornall; to haife the strenth of ane act and decreit thairof; with executioun of horning and pouding, to be direct aganis the said Johne and his cawtioun, for fulfilling of the said Will; and the horning to be vpoune ane simple charge of fax dayes wairning; quhairof the tenour followis:

JAMES, be the grace of God, King of Scottis. To our Justice, Justice Clark and pair deputis, greeting. Forsamkill as Johne Kyncaid of Craighous, is becom in our will, for þe Reveisching of Isobell Huchefoun, wedo: Thairfor, We declair our will as followis, to wit; that the said Johne Kyncaid fall mak payment to ws and our Thesaurer, in our name, or to sik vtheris as our said Thesaurer fall appoynt and assigne, of the sowing of xxv^s (2500) merkis money of our realme: As also, that he fall delyuer to ws and our said Thesaurer his broune horse: Commanding heirbye ȝow our said Justice, Justice Clark and ȝour deputis, to cause pronounce and declair þis our will aganis þe said Johne, judicialle, and insert þir presentis in our buikis of Adiornall, to haif the strenth of ane act and decreit; that executioun of horning and poynding may be direct aganis þe said Johne, vpoune ane simple charge of fax dayes. Subferyuit with our hand, at Halyrudehous, the last day of Januar, 1601 ȝeiris.

(Sic subfribitur)

JAMES REX.

Slaughter.

[*Mr Williame Borthuik, Justice-Depute.*]

Jan. 22.—WALTER SCOT, James Scot and William Scot in Schoftanis, all brether to Robert Scot of Bowhill, and John Scot in Quholp-law, alias callit *Johne of Bonytoun*.

Comperit Mr Allane Hammiltoun, feruitour to Sir Archibald Naper of Edynbillie, knyght, and as procuratour for the said Sir Archibald, and produceit our sowerane lordis lettres, deulie execute and indorsat, purchest be Alefounne Edmeiftoun the relict, and the said Sir Archibald Naper as fader, with the brether and remanent kyn and freindis of vmq^{le} Archibald Naper, Gudeman of the Wowmet;¹ to tak fouertie of Walter Scot, &c. that thay fuld haif comperit befor the Justice or his deputis, this day and place, in the hour of cause, and vnderlyne the law for the Slaughter of the said vmq^{le} Archibald;² be the quhilkis lettres the saidis personis ar denunceit our sowerane lordis rebellis, and put to the horne. The said Mr Allane Hammiltoun protestit for releve of Johne Naper, ȝounger of

¹ Woolmot, near Edinburgh. ² George Birrel gives the following notice in his 'Diarey,' p. 52, 'The aucht of November (1600), Archibald Napier flane be fyve of the name of Scot and Thomas Crichtoun, ryding hame to his awen hous to the Wowmet.'

Merchintoun, cawtioner for productione of the faidis lettres : quhairvpoun he askit actis and instrumentis.

[*Mr Williame Hairt, Justice-Depute.*]

Breaking into the Place of Boningtoun—Theft of Title Deeds, &c.

Mar. 31.—JAMES WOD, fear of Boningtoun, and Williame Wod of Latoun.

Dilatit of the breking of the Place of Boningtoun, &c.

PERSEWAR.

Mr Thomas Hammiltoun of Drumcarne, Aduocat to our souerane lord, for his hienes interes. PRELOQUUTOURIS for James Wod, Mr Johne Russell, Mr Alexander King, Mr Laurence McGill, Capitan Andro Gray, Robert Gray.

The Aduocat produceit his Maiesteis Warrant, subferyuit with his hienes (hand,) ordaining him to insist in pursuit, &c. ; quhair of the temour followis.

REX,

MR THOMAS HAMMILTOUN of Drumcarne, our Aduocat, We greit 3ow weill. It is our will, and We command 3ow, that eftir pe sycht heirof, 3e compeir before our Justice or his deputis, in our Tolbuith of Edinburgh, the last day of March instant, in pe hour of caus ; and insist in pursuit of James Wod, fear of Boningtoun, and Williame Wod of Latoun, tane and dilatit of breking of pe Place of Boningtoun, and of pe tressonabill and thifteous steilling and away-taking furth pair of, of certane ewidentis, writtis and pleneiffing, pertening to Patrik Wod, eldar of Boningtoun, and to pe Lady Vlane :¹ As also, for contravening of pe Actis of Parliament in heiring of Mefs ;² and ressetting of Lneis,³ ane Seminarie Preist : ffor pe quibilk thir presentis salbe 3our Warrant. Subferyuit with our hand, Att Halyrudhous, the last day of March, 1601. (Sic subfcribitur) JAMES R.

Thairefter, the said Mr Thomas Hammiltoun produceit the Dittay following.

DITTAY against JAMES WOD and WILLIAME WOD.

JAMES WOD, fear of Boningtoun, and WILLIAME WOD of Latoun ; Ye ar indytit and accusit : fforfamekill, as it is statute and ordenit be our souerane lordis Actis of Parliament, and speciallie, be ane Act maid in his hienes Parliament, hauldin and begun at Edinburgh, the xxix day of Julij I^m.V^c. lxxxvij yeiris, that incaice it sal happin ony landit men to be lauchfullie and ordourlie convict of the crymes of Thift, Ressett thairof or Stouth-reiff, in tyme cuming, thay fall incur the cryme and payne of Tressoun ; that is to say, tinfall of lyffe, landis and guidis ; as the said Act at mair lenth beris : And trew it is, that ye and ather⁴ of yow, being landit gentilmen, accompaneit with Thomas Daw, finyth in Brechin, Alexander Daw, in Carrestoun, his brother, and vtheris your complices, laithie, vpoun the xvj day of March instant, came, vnder fylence and cloud of nycht, fra the citie of Brechin, to the Place of Boningtoun, pertening to Patrik Wod, eldar of Boningtoun, fader to yow the said James ; quhair Alexander Daw schott the haill 3ettis⁵ of the said place, and preiffit⁶ to pryife⁷ the

¹ A strange corruption, for Ulysses-haven, in the shire of Forfar. ² There is no notice of this branch of the Dittay having been insisted on, and no farther notice is taken. *Birrel* says, in his 'Diarey,' p. 54, 'The last day of Marche, James Wood of Bonnytown and his guid-brother Williame Wood tholit ane Affyze for being at the Mefs in Andro Napier's hous ; but continewit the executioun.' ³ Name left blank. ⁴ Either, each. ⁵ Shot or unbolted the bars and bolts, or other fastenings, of the gates. ⁶ Made a strenuous endeavour. ⁷ To prize or wrench open by means of any lever, such as a 'pinch' or crow-bar, &c.

irne ȝett thairof, and to enter thairin perforce: And becaus ye could nocht pryise the said irne ȝett, ye pryist vp ane stanehell¹ of ane laich volt windok,² and enterit thairby to the said place: And efter your entrie, ye opnit the haill duris, and schot the lokis of all the kistis³ within the said place, and speciallie of the Chartour kist, standing in the chalmere of dace⁴ of the said place, perteneing to your said fader; furth of the quhilk ye tressonablie (and) thisteouslie stall, concealit, resset, stouthfullie rest, and away-tuik, the haill evidendis being thairin; and findrie vther writtis furth of ane vther kist, within the Galrie of the said place, and opnit the haill remanent kistis and cofferis being thairin; furth of the quhilkis lykewyise, ye tressonablie and thisteouslie stall, stouthfullie rest, resset and away-tuik nyne pair of scheitis, foure buird-clathis,⁵ twa dosone and twa of feruettis,⁶ ane pair of blankettis of fustiane, and ane peace of vnbleicht linning claith: And efter that the haill kistis wer opnit, and that ye wer paking vp the writtis and plenneissing foirsaid, within the saidis buird-clathis, Matho Wod in Croftis, James Wod his sone, and David, ane rynner boy to the Maister of Ogilvie, came to the Place of Boningtoun to yow, and helpit to pak vp the graith: Lykeas, ye the said Williame Wod of Latoune, with Matho Wod, James Wod and David, and ilkane of yow, thane thisteouslie convoyit away and bure vpoun thair bakis, the haill plenneissing aboue writtin, writtis and evidendis, togidder with ane lytill coffer with writtis, perteneing to the Lady Vane, furth of the said Place of Boningtoun, towardis the Place of Boschene; quhair ye wes resset be Johne Ogilvie, seruand to the Maister of Ogilvie, and be yow the said James Wod, fear of Boningtounne, haifing borrowit the said Place of Boschene to that purpois: And vpoun the Thurisday thairefter, being the xix day of this instant, ye thisteouslie transportit and convoyit the saidis evidendis, writtis and plenneissing, fra the said Place of Boschen to the Place of Inchtur; quhair ye the said James Wod, be your self, and vtheris of your causing, resset the famin: And swa, ye and ather of yow ar art and pairt of the thisteous breking of the said Place of Boningtounne, and of the tressonabill and thisteous steiling, concealing, away-taking and stouth-reiff, furth thairof, of the plenneissing, writtis and evidendis aboue writtin, perteneing to the said Patrik Wod of Boningtounne, fader to yow the said James, and to the said Lady Vane; and of the resset thairof: Of the quhilkis crymes, ye, being landit gentilmen, and being ordourlie and lauchfullie convict, ye and ather of yow hes incurrit the cryme and pane of Tressounne, viz. tinfall⁷ of lyffe, landis and guidis: To the takin⁸ that ye and ather of yow ar art and pairt of the saidis crymes, ye haif confest the famin be your Depositionis; as the famin, subscryuit be your handis, beris.

The famin day, the Laird of Latoune, efter reding of the Dittay produceit be the Aduocat, declarit that he wald becum in the Kingis Maiesteis Will for the famin: Quhairvpoun the said Mr Thomas Hammiltoun askit instrumentis.

The parteis, requiring that this mater mycht continew to the morne, THE JUSTICE repellis, and ordanis proces.

The preloquitouris for James Wod desyrit that thay may haif licence to propone declinatouris aganis ony Assessor that he fall speir att.—It is alledgeit be the said James Wod and his preloquintouris, that na proces can be led aganis the said James; becaus he is challengeit vpoun crymes of Tressounne, and that he is nocht summond vpoun fourtie dayes, to vnderly the law for the said cryme, quhilk aucht to be; in respect he is nather tane *in flagranti crimine*, nor putt

¹ Stancheon. ² The window of a low vault or cellar. ³ Chests. ⁴ The presence chamber, or room of state. Properly speaking, it is that part of a hall which was raised higher than the rest; the place of honour. ⁵ *Chawmer o' dais* is still used to signify a parlour, in remote parts of the country. ⁶ Table-cloths. Servets, towels, or table napkins. ⁷ Loss; from the verb to *lyne*, or lose. ⁸ In token, evidence, or proof.

to the horne.—To the quhilk it is anſuerit, that it is nocht neceſſar to warn him vpoun fourtie dayes, becaus he is accuſat of Treſſoune, and brocht fra the Kingis waird to the bar.

THE JUSTICE findis proces, and repellis the alledgeance; quhairvpoun my Lord Aduocat askit instrumentis.

It is alledgeit, that the Dittay is nawyis relevant, becaus it is diſconforme to the Act of Parliament; becaus the Act of Parliament is anent commoun thift, reſſett of thift, or ſtouth-reiff; and trew it is, that the propoſitioun of the Dittay is nocht ſa ſett down, but only vpoun ſimpill thift; quhair that the wordis of the Act of Parliament is extendit only to commoun thift, commoun reſſett, commoun ſtouth and reiff.—The Aduocat anſueris, that the alledgeance aucht to be repellit, in reſpect of the Actis of Parliament and Dittay; ſpeciallie, ſeing thair is na thing obiectit aganis the tua poyntis of Dittay, anent the reſett of thift and ſtouth-reiff, quhilkis ar baith ſeuerallie (*ſeparately*) releuant.—It is anſuerit be the defender, that thay wordis of the Act of Parliament, anent reſett of thift, ſtouth-reiff, man (*muſt*) be *eiusdem nature* with thift; that is to ſay, commoun thift: And forder, the haill ſtrength of this Dittay, ſa far as is qualeſeit aganis Bounningtoun, is qualeſeit vpoun the alledgeit actuall deid of thift, alledgeit committit be him, quhilk of all neceſſitie man be, be the Act of Parliament, commoun.—The Aduocat anſueris, that the wordis of the Act of Parliament ar conſauit diſ, and ewerie poynt thair of is relevant, lyke as the pannell is perſewit for the thift, reſett of thift and ſtouth-reiff.—It is anſuerit be the pannell, that that word ‘commoun’ is vnderſtand to be repetit in ewerie pairt of the diſ ; and as ſimpill thift is nocht Treſſoune, *nullo minus* is ſimpill reſett or ſimpill ſtouth-reiff, Treſſoune; for thay man be *eiusdem nature*.—The Aduocat alledgis, that the ſaid alledgeance aucht to be repellit, in reſpect of the wordis of the Act of Parliament.

(2.) Forder, it is alledgeit be the defender, that the Dittay is nocht relevant, becaus it conſiſcendis nocht quhat landis the excipient hes; for, without it wer ſpeciallie conſiſcendit vpoun, the Dittay can nawyis be relevant to infer Treſſoune: And forder, gif the Aduocat wald conſiſcend, we mycht and wald allege, that gif ony Infeſtment the defender had of thay landis, he wes, lang before the alledgeit committing of the cryme lybellit, denudit of thais landis, be Decreit of Redemptioun obtenit att the inſtance of his fader; and we declair that the alledgeance is only proponit to elide that pairt of the lybell concerning Treſſoune; vnder proteſtatioun, that he nawyis grantis the cryme lybellit.—The Aduocat anſueris, that the alledgeance aucht to be repellit, in reſpect of the Dittay; ffor gif he haif land, the concluſioun anent the Treſſoune ſtandis relevant; and gif he want land, the reſt of the Dittay will tak his lyffe and all his gudis.—It is anſuerit,

that my Lord Aduocat man say *positive*, that he is landit, and condiscend quhat land he hes ; for it man be lybellit and cognoscit be Assyise, quhiddel he be ane landit gentilman or nocht ; and ane presumption can nocht be put to ane Assyise, bot (*without*) ane affirmatioun and ane speciall condiscending vpoun quhat land he hes ; and the partie man be hard, to propone his defensilis aganis the famin.—The Aduocat repetis his former ansuer.

(3.) Forder, of all necessitie, the Aduocat man condiscend vpoun the names of the landis, becaus gif he wald condiscend, that same condiscending wald be ane sufficient exceptioun to the defender, to purge him of the hail Dittay ; be reasoun that the eidentis, alledgeit stollin, will be fund to be the eidentis of the landis quhairof he falbe condiscendit to be heretour ; and swa, can nawyis be thift ; for ane man can newir be callit and convict of thift, for steilling of his proper guidis ; that is contrar to the definitioun of thift, quhilk is *contrectatio rei aliene, invito domino*.—The Aduocat repetis his former ansuer and the Dittay.

(4.) ITEM, it is allegeit that the Dittay is nocht relevant, in respect that it condiscendis nocht, quhat eidentis and of quhat landis thay ar of ; quhilk man be condiscendit vpoun, in respect the defender wald sufficientlie purge the hail Dittay and away-taking thair of, be schawing that the saidis eidentis wer his awin proper eidentis.—The Aduocat repetis the Dittay for ansuer.

(5.) ITEM, it is forder allegeit, that this Dittay can nocht be putt to the knowledge of ane Assyise, becaus it man ressaue ane Ciuile precognitioun, quhilk is nocht¹—The Aduocat ansueris, that thair is na Ciuilitie in Tref-foun, and the allegiance mereitis na ansuer.—The defender sayis, he will say na mare at this tyme.

(6.) ITEM, anent the seruiettis, *non relevat, et est res parvi momenti* ; and *per se* can work na thing.

INTERLOCUTOR of *Relevancy*. THE Justice findis the Dittay relevant ; and remittis the famin to the tryell of ane Inqueist, nochtwithstanding of the hail alledgeances aboue writtin, proponit for the pannell ; and to be verefeit to the Inqueist, as accordis.

Vpoun the quhilk Interloquintour, the Aduocat askit instrumentis.

ASSISA.

Sir Patrick Creychtoun of Strathaird,	Mr Patrik Balfoure of Pitcullochit, Johnne Mathefounne of Brochtounne, Andro Paterfounne of Leuchrie, Clement Kyncaid of the Coittis,
Patrik Hepburne of Riccartounne, James Richefounne of Smetounne, Alexander Fairlie of Braid,	
Patrik Levingtounne of Saltecoittis, Johnne Houstounne of Lany, Patrik Johnnestounne of Elphing-	
George Lyle of Stanypeth, Johnne Fairlie of Comeistounne, stounne.	
Mr Patrik Hepburne of Smetounne, Williame Congiltounne of that Ilk,	

The Adnocat askit instrumentis of the swering of the Assyise ; and that my Lord Justice will nocht ressaue the Laird of Latounne in will ; bot will put him to ane Assyise. The Aduocat (also) askit instrumentis of the reding of the Dittay to

¹ Left blank.

the Assyse; and of the production of the Act of Parliament; and of the production of the foure Depositionis, maid and subscriuit be the pannell; beirand the haill contentis of the Dittay.

The Defender acceptis the Dittay, the haill verificatiounis and Judgeis Interloquuntour, and repetis the haill allegeancis proponit ofbefore, to be cognoscit be the Assyse; And alledgis, to the Assyis, that seing the Act of Parliament is ane pairt of the Dittay, and the fundament and ground of the samin; and seing, the haill Dittay and verificatioun consistis vpoun thift; in caise the Assyse find nocht the pannell giltie of Commoun Thift, protestis, that he be chargeit of the said Dittay and Act of Parliament; and ane cryme or poynt of Thift, of the law and practik of this realme, man newir be estemit Commoun Thift; and ane persoun can newir be convict of Commoun Thift, for ony ane alledgeit poynt or cryme; ffor he, of the law and practik of the realme, is estemit ane Commoun theif, quha is convict of thre seuerall poyntis and crymis of Thift; quhilk is nather qualescit in the Dittay nor verifeit. And forder, the Defender takis instrumentis, that thair is na thing producit to verifie him to be ane landit gentleman; and thairfore, of all necessitie, man be clangeit of all poyntis of Tressoun; ffor except it had been relevantlie qualifeit in the Dittay, and sufficientlie instructit, that the Defender wer ane landit gentilman, Tressoun could nather be inferrit nor concludit vpoun that dittay. Forder, the defender alledgis, that the remanent of the crymes contenit in the said Dittay, for the alledgeit away-taking of the eidentis and the Confessioun maid be him of the samin, is na cryme of Thift; haifand consideratioun, that the eidentis is confessit to appertene to his fader, to quhome he is eldest sone and apperand air; and the away-taking of his faderis eidentis, can newir import Thift; haifing consideratioun, that his fader, quhom-fra the eidentis is alledgeit tane, is na persouwar nor complenar; and thair is na actionne that can be compitent for the awaytaking thairof, bot¹ only ane simple action of spuilzie; ffor that wer ane dangerous preparatiue² to the haill realme of Scotland, that quhen ane sone offendis his fader, ather be alledgeit away-taking of his eidentis, horse or vther graith, the fader newir complenand nor syndand falt with the doing of the said deid, that the committeris false convict of Tressoun or Thift, at the Aduocatis instance.

To the quhilk, it is answerit be the Aduocat, that the Assyse aucht navyis (to) respect the alledgeance proponit, in safar as this Dittay is consauit aganis William Wod of Latoune; becaus he nather proponis nor adheris to itt, bot hes ratifeit his Depositionis, and hes becum in his Maiesteis will, for the haill poyntis of the Dittay; in respect quhairof, in cais the Assyis onywyis clange,³ protestis for Wilful error. And in safar as the alledgeance is proponit for Boningtoun,

¹ Unless, excepting.

² Precedent, example.

³ *Cleanse*, or acquit.

the fyrst pairt, anent the Commonne Thift, nawyis concernis the Affyis, bot the dittay foundit vpoun the Thift, Refsett of Thift and Stouthlireiff, speciallie sett down in the Dittay, in ewerie speciall poynt thairof, is fund relevant be my Lord Justice; and the consideratioun of the relevancie of the famin, only pertenis to the Judge, and nawyis to the Affyis, quhais dewtie is only to try, declair and determine, gif the fact and deid contenit in the Dittay to haif bene done and committit be the Pannell; and gif thay be giltie thairof, thair giltienes of the quhilk Dittay being manifest, be thair awin Depositionis, subferyuit with thair handis and red in thair presens before the Affyis, thay nor nane of thame can pretend ony ignorance thairof: And quhair it is alledgeit, that it is nocht verifeit that the said James Wod is ane landit gentilman, that aucht to be repellit, in respect of the notorietie that he is eldest sone and apperand air to the Laird of Boningtonne, and fear of the said lewing; as his subfcriptioun of his awin Deposition, producit, beris: Nether is it necessar that the Aduocat, perseward for his Maiesteis interes, sal verifie, be writt or production of the pannellis euidentis, that he is ane landit gentilman; quhilk wer impossibill, the writtis being in the defenderis awin handis; quhilk, possiblie, can nocht be presumit to be habill to be recoverit be the persewar; bot in crymes of Treffoun, fyve yeiris possessioun of heretage, be the rebell, is *loco tituli*, and makis the rebell to be repute to haif bene heretabill proprietor of the saidis landis, and the heretabill rycht of the famin to befall to the King, be fforfaltour. And it is of veritie, that the defender hes posselt the Landis of Birnie, as heretabill proprietour thairof, be the space foirsaid: in respect of the notorietie quhairrof, and of his awin affirmatioune foirsaid, it being manifest and notour that he is ane landit gentilman, and that he hes committit the haill crymes contenit in the dittay, as is cleirly verifeit be the Depositionis producit, and Latounis Confessioun, and becoming in will; in caise that the Affyse clange him of ony of the pointis libellit, protestis for Wilfull errorr aganis the said Affyfouris, and all payne that can follow thairvpoun. As to the last pairt of the alledgeance, that the fader, to quhome the euidentis and geir pertenis, persewis nocht, and that the fact is committit be his eldest sone and apperand air; ansueris, that albeit the partie grewit keipis fylence and persew nocht, the Aduocat hes sufficient interes, be exprefs Act of Parliament, to persew all crymes, without concurrence of the partie: Lykeas, the persewar acceptis that pairt of the alledgeance, that the deid contenit in the Dittay is committit be the Laird of Boningtonnis eldest sone, quhilk beris ane judiciall Confessioun of the treffonabill fact contenit in the Dittay, and fand be interloquoutour of the Judge to be ane treffonabill cryme.

It is ansuerit, that the Dittay and ewerie heid thairof aucht to be verifeit; and quhair it is alledgeit, that he man be persewmit ane landit gentilman, becaus he

subferyves ‘fear of Boningtoun,’ that argument can work na thing, becaus na thing can mak ane man fear, bot Chartour and seasing; and forder, gif that may verifie, *ergo*, it is confest be the persewar, that the evidētis tane away ar the defenderis awin proper rychtis, and sa can nocht be Thift: As to the Act of Parliament, the samin militatis na thing in this caice, ffor in the caice of the Act of Parliament, it is the cryme that makis the man tratour; and this cryme *pe*, *et sua natura* is na Treffoun, except it be committit be ane landit gentilman; quhilk man (*must*) be verifeit.

VERDICT of the Assise.

QUHILKIS perfounis of Assyis, being chosin, and the said JAMES WOD, fear of Boningtoun, and WILLIAM WOD of Latoune, being accusit oppinlie in judgment, be reding of þe said Dittay, &c., thay removit altogidder furth of Court, to the Counsal hous of the said Tolbuith; quhair thay, being convenit, electit and chuse the said James Rychardfoune of Smetoune Chancillar, and reafonit and votit vpoun the poyntis of the said Dittay; and efter lang deliberatioun, being throwchlie auist thairwith, thay reenterit agane in Court, and thair, be the mouth of the said James Rychardfoune Chancillar, all in ane voce, fand, pronunceit and declarit the said *Willame Wod of Latoune* to be ffylit, culpabill and convict of the Dittay aboue writtin, and hail crymes thairin contenit; in respect of his Depositionis, and that he become in his Maiesteis Will thairfore: AND als, the said perfounes of Assyse, for the maist pairt, be the mouth of the said James Rychardfoun of Smetoun Chancillar, fand, pronunceit and declarit the said James Wod, fear of Boningtoun (as fear of Boningtoun, quhilk he confest to, be his awin subfcriptione at his Depositionis) to be ffylit, culpabill and convict of airt and pairt of the thifteous breking of the Place of Boningtoune, entering thairin perforce, accompaneit with the perfounes contenit in the said Dittay, and of opning of the hail duris and lokis of all the kistis within the said Place; and speciallie, of the Chartour-kist, standing in the chalmer of daice of the said Place, pertening to Patrik Wod of Boningtoun his fader; and of the thifteous steilling, conceling, stouthfullie reifing, ressetting and away-taking furth of the said kist of the hail evidētis being thairin, and sudrie vther writtis furth of ane vther kist, standing within the galrie of the said place; and opning of the hail remanent cofferis and kistis being within the said place; and of the thifteous steilling, stouthfullie reifing, ressetting and away-taking furth thair of, of nyne pair of scheitis, foure burdelathis, twa dosone and twa feruiettis, ane pair of blankettis of fusteane, and ane piece of vnbleachit linning claith, pertening to the auld Laird of Boningtoune; and of ane coffer with evidētis, pertening to the Lady Vlane; committit vpoun the xvj day of March instant, vnder fylencc and cloud of nycht.

‘Hary Stewart of Craigiehall and George Dowglas of Langnudrie, amerciati in þe pane of ane hundreth markis’ each; for not appearing ‘to haif past vpoun the said Assyse.’

SENTENCE. Apr. 1. THE quhilk day, JAMES WOD, fear of Boningtoune, and WILLIAM WOD of Latoune, being presentit on pannell, to heir and sie dome pronunceit aganis thame, as thay that war lawfullie and ordourlie convict and fund guiltie, be ane Assyis, in ane Court of Justiciarie, haldin in the Tolbuith of Edr the last day of Marche lastbypast, be the said Justice-depute, of airt and pairt of the thifteous breking of the place of Boningtoune, &c. as at lenth is contenit in thair Convictionis: Thairfoir, the said Justice-Depute, according to the tennour of the Act of Parliament, hes fund, be the Convictione of the said James Wod, as feare of Boningtoune, and the said Willame Wod of Latoune, be ane Assyis, of the crymes of thift foirsaidis, that thay and ather of thame hes incurrit the cryme and pane of Treffounne, viz. tynfall of lyffe, landis and guidis: ffor the quhilk canse, he, be the mouth of Robert

Galbraith, dempstar of Court, hes Ordanit and Ordanis thame and ather of thame to be tane to ane gibbet, standand be-eift the mereat-croce of Edr, and thairvpoune to be hangit, quhill thay be deid :¹ And all thair landis, heritageis, takis, steddingis, rowmes, posselliounis, coirnis, cattell, guidis and geir to be forfaltit and inbrocht to our souerane lordis vse, as conviet of the saidis crymes.²

[*Mr Williame Borthuik, Justice-Depute.*]

Breaking into the Place of Bonningtoun—Stealing Title Deeds, &c.

Apr. 3.—THOMAS DAW, fynyth in Brechin, and Alexander Daw, fynyth, his brother, in Correstoune.

Dilatit of airt and pairt of the thifteous Steiling, conceling, ressetting and away-taking of certain eidentis and writtis, with pleneiffing, furth of the Place of Bonningtoun ;³ with certane pleneiffing, scheittis, blankettis and buirdclathis ; and ane coffer, with writtis, pertening to the Lady Vlane.

The Aduocat takis instrumentis of the Confessiounne of the pannell, of thair being at breking of the Place of Bonningtoun ; and that Thomas Daw gat thre crownis, and Alexander Daw gat ane crowne, for thair panis : And protesting, gif the Assyis clenge, for Wilfull errorr : Repeittis lykewyis the Depositionis of Latoune and Bonningtoun ; quhilkis ar produceit to the Assyis.

VERDICT. The Assyis,⁴ be the mouth of Thomas Somervell, merchand in Edr, chancellor, stand, pronunceit and declarit the saidis Thomas Daw and Alexr Daw to be flylit, culpabill and conviet of airt and pairt of the thifteous steling, conceling, ressetting and away-taking of the saidis writtis and eidentis, &c.

May 7.—The Justice-depute, be the mouth of Robert Galbraith, Dempstar, ordanit the said ALEXANDER DAW to be tane to the gibbet on the Castle-hill, and thairvpoun to be hangit⁵ quhill he be deid ; and all his movabill guidis to be escheit and inbrocht to our souerane lordis vse, as Conviet of the saidis crymes.

¹ It is probable that great interest was made for the young Laird of Bonningtoun. The sentence was not carried into execution till Apr. 27 ; under which date, Robert Birrell records as follows :— ‘ James Wood of Bonnytown beheidit at the cross, at 6 houres in the morneing, for breaking the Place of Bonnytown, quhillk appartenit to hes father, and fould haif beine hes awen.’

² Since the above was written, the Editor has found the following interesting notice :— ‘ UPON Moun-day pe 27 of Aprile (1601), THE LAIRD OF BONYTOUN was beheaded at pe Cross of Edinburgh, betwixt six and sevin in the morning, be a Commission from the King, directed to pe Bailliffes of Edinburgh, tymonfly in the morning ; for howbeit great intercession was made be Huntly, Erroll, Hume, and operis, yett pe Ministers were instant with the King, to have a prooffe of his sincerity. He died ane obstinat Papist, ever looking for pardon till the last gasp. He pretended he suffered for the Roman Catholic Religion, but it was noe point of his Dytay ; only the steeling of his father's evidences and writtes was layed to his charge. LATOUN gatt Remission, be pe moyen of Courtearis.’—*Calderwood's Church Hist.* MS. Adv. Library. ³ In an abstract of their Dittay, which is inserted, it is stated, that they, ‘ accompaneit with the Wodis,’ &c. ‘ vnder sylence and cloude of nycht, come to pe Place of Bonningtoun, and pair thifteoullie clam ye barnekyn wall with ane ladder,’ &c. ⁴ Composed of ‘ merchandis’ and ‘ burgesis’ of Edinburgh. ⁵ Birrell says, ‘ The 7 of Majj tua men wer hangit on the Castell Hill, the ane callit Williame Criehtoun, for thift ; and the uther, Alexander Smythe, dager-maker, for opining of the lockis to the Laird of Bonytown.’

Perjury — Hearing of Mass, &c.

Apr. 24.—MR WILLIAME BARCLAY, brother to Sir Patrik Barclay of Towie, (Tollie) knyght.

Dilatit of Periurie; and Heiring of Mefs, contrair the Actis of Parliament.

Comperit David Hairt, feruitour to my lord Thesaurer, and produceit the lettres deulie execute and indorsat, purchest be Mr Thomas Hammiltounne, his hienes aduocat, aganis Mr Williame Barclay, for the crymes within contenit. ‘Continewit *in cras*.’

[*Mr Williame Hairt, Justice-Depute.*]

Apr. 25.—DITTAY. THAT quhair, it is expresse provydit, statute and declarit, be Act of Parliament, maid in the tyme of his hienes derrest mother, vmq^{le} Marie Quene of Scottis, that the panis of Periurie falbe to the personis committeris thair of, confiscatiounne of all thair guidis movabill, wairding of thair personis for yeir and day, and langer, induring hir Maiesteis will; and to be infamous personis, never abill to bruik office, honour, dignitie nor benefice, in tyme to cum: And als, it is statute and ordanit, be Act of Parliament, maid in his hienes Parliament, haldin and begun at Ed^r the viij day of Junij the yeir of God J^m.V^c.lxxxxiij yeiris, that in all tyme cuming, all Wilfull Heraris of Mefs, and conceallaris of the samyn, be execute to the death; and thair guidis and geir escheit to our souerane lordis vse, sa fone as thay fall be fund gyltie and convict thair of, or declarit fugitiue for the samyn, befor the Justice-generall and his deputtis, or the lordis of his hienes Privie Counsale; as the saidis Actis, at mair lenth beris. AND trew it is, that the said Mr Williame Barclay, haifing, in pe moneth of . . . lastbypast, sworne and subscryuit befor the Presbyterie of Ed^r that he wes of the Religioune presentlie professit within this realme; nochwithstanding thair of, vpoun the xx and xxj dayes of Marche lastbypast, he assistit and hard twa Messis, quhilkis war said be Mr Alex^r M^rQuhirrie, ane Jesueit Preist, within Andro Naperis duelling house in Ed^r; be the heiring quhair of, and assistit thairto, he hes profest and sworne the contrair Religioune; and sua, hes committit the cryme of Periurie, and incurrit the pane thair of abouewrittin, contenit in the said Act of Parliament: Lyke as, he, be the wilfull heiring of pe saidis twa feuerall messis, at the twa feuerall tymes *respective* abouewrittin, hes incurrit the panis contenit in the vther Act of Parliament, maid anent Wilfull heraris of Mefs, viz. the pane of death and confiscatiounne of all thair movabill guidis.

The said Mr Williame refusit to abyde the tryell of anc Assyis; bot become in his Maiesteis Will for the samyn crymes: Quhairvpoun the said Mr Thomas Hammiltounne askit Actis and instrumentis.

[*Mr Williame Borthuik, Justice-Depute.*]

May 2.—The said Justice-depute produceit his Maiesteis Warrant, concerning his hienes Will; quhilk he pronunceit and oppinlie red in jugement; quhair of the tennour followis.

JAMES, be pe grace of God, King of Scottis. To our Justice, Justice Clark and his deputis, greting: fforamekill as Mr Williame Barclay, bropr to pe Laird of Towie, is becum in our will, in ane Justice Court, haldin in our Tolbuith of Ed^r, vpoun pe xxv day of Apryle lastbypast, for Periurie, and hering of Mefs, contrair pe tennour of our Actis of Parliament: Thairfoir, We declair our will, as followis, to wit: ffor pe Periurie, We ordane pe said Mr Williame to be declarit Infamous, and nocht habill, now, to bruik office, honour, dignitie or benefice, within our realme: And for pe hering of Mefs, we decerne and ordaine him to be Baneist our realme, during all pe dayis of his lyfetime, and never to returne within pe samyn, vnless, be satisfactiounne of pe Kirk, he obtene our speciall Licence to pat effect; vn-

der þe pane of deid : And that he remoue or depairt furth of our realme, within fourtie dayis nixt efter his libertie furth of his present waird. Commanding, heirfoir, 3ow, our said Justice, Justice Clark and 3our deputtis, to pronunce and deliuer þis our will, iudiciallie, aganis þe said Mr Williame : And pair-estir, caufe commit him to waird agane, within our Castell of Ed^l, pair to remane quhill the forder knowledge of our will and plefour towardis him. As 3e will anfuer to ws pairvpoune : Quhairanent þir presentis falbe 3our Warrant. Subferiuit with our hand, At Dalkeith, the last day of Apryle, and of our regne þe xxxiiij 3eir, 1601.

(Sic subferibitur) JAMES REX.

Quhilk being oppinlie red and declarit in judgment, the Justice-depute interponit his authoritie thairto.

[*Mr Williame Haert, Justice-Depute.*]

Exhibiting the King's Portrait, on the Public Gibbet, &c.

Apr. 25.—ARCHEBALD CORNUALL, ane of the toune officiaris of Edinburgh.

[THE following Trial is perhaps unparalleled in the Annals of Criminal Jurisprudence, in any country ; and cannot be read without exciting feelings of the utmost disgust and indignation, at the cold-hearted and vindictive, nay, sanguinary spirit, which dictated the pronouncing and carrying into execution of so awful a sentence, for an offence of so trivial a nature, probably originating in pure accident or inadvertency, or at most in a foolish jest of the officer, who would, no doubt, for his own interest, as well as that of his employer, in making a sale, endeavour to dispose of the picture to the best advantage. The Dittay only accused him of '*preiffing* to haif hung the same' upon the gallows ; but that he was prevented from doing so by the people.]

It is evident that the King instigated these disgraceful proceedings ; and it is equally certain, that the unhappy victim of this most tyrannical act suffered death accordingly. The '*Affilse*' bears all the marks of a selected '*set* of worthless and pluckless wretches.' No less than *eight* of their number are Tailors, who have at no time been famed for extraordinary firmness or independence. The voracious Robert Birrel gives the following account of the matter. '*The same day (Apr. 27), Archibald Cornell, toune officer, hangit at the Croffe, and hung on the gallows 24 houres : And the caus quhairfore he wes hangit : he being an unmerciful, greedie creatur, he poyndit ane honest manis hous, and amongst the rest, he poyndit the King and Queins picturis ; and quhen he came to the croffe to compryse the same, he hung thame up upone twa naillis on the same gallows, to be comprysit ; and thai being sene, word 3ead to the King and Queine, quhairupone he wes apprehendit and hangit.*' If Birrell is correct with regard to date, (which it would appear he is,) it makes the matter still worse, so far as the King is concerned ; for it puts violent and sudden rage out of the question. The '*treffonabill fact*' took place upon the 15th day of April ; so that the trial, condemnation, and execution must have proceeded on cruel, deliberate, and malicious determination : The proceedings before the Justiciar are dated Apr. 25 ; and the poor town officer did not suffer death till Apr. 27.

Unfortunately for the character of King James VI. this is by no means a solitary instance,—witness the Cases of John Dickson, in Lyne, Aug. 3, 1596 ; Francis Tennent, Oct. 10, 1600 ; Thomas Ross, son of Ross of Craigie, in 1618 (executed Sept. 10), and many others. Another very remarkable instance of the arbitrary and despotic character of James, in the month of October the same year, is given in the new and accurate edition of Lord Hailes' Annals, 8vo, Edinburgh, 1829, Vol. iii. p. 106, and which is reprinted here, in illustration of the above remarks. The object of this latter act of tyranny is abundantly clear. Mr Peter Narne was a victim offered up to the English nation, at a time when the King was plotting with Cecil, &c. to secure his succession to the throne of Elizabeth ; as a foretaste, doubtless, of the protection he would afford them against every encroachment of his Scottish subjects. There is no doubt that this unfortunate man suffered, for his supposed *intention to murder* ;

as the torture was directed to be used, till he should confess; and then the Judge was directed to pronounce sentence of death!

So extraordinary is this Case of Archibald Cornwall, in all its bearings, that the Editor deemed it requisite to investigate the matter, as minutely as his opportunities permitted. The result of these inquiries are appended, and left to the reader's consideration, without farther observations.]

Dilatit of the ignominious Dishonouring and Defaming of his Maiestie, in taking of his Portratour, and laying of the samyn and setting thair of to the stowpis and vpperaris of the gibbet, preiffing to hing vp the samyn thairvpoune.

PERSEWAR, Mr Thomas Hammiltoun, Aduocat to our Souerane Lorde.

ASSISA.

Patrick Acarfane, wrytter,	Johne Blak, tailzeour thair,	Edmond Smyth, tailzeour ('in the Cannogait,')
Willame Tailzeour, deacon of the	Johne Horne, fruitman in Edr,	James Sympfoun, tailzeour thair,
tailzeouris in the Cannogait,	Johne Pillons, cordiner thair,	Willame Bauchop, wryter thair,
Johne Rankene, tailzeour, burges	James Aikman, tailzeour thair,	Alexander Lyell, lkyner thair,
of Edinburghe,	David Bennet, tailzeour thair,	Adame Carkettill, tailzeour thair,
Patrick Somervell, burges thair,	Patrik McGregour, fruitman.	

The Aduocat takis instrumentis of the Admissioun and swering of the Assyis.

The Aduocat protestis for Wilful Errour, in case they acquitt; in respect of the notoriety of the deid, knawin to thamefelffis.

The quhilk day, Archibald Corneuell, ane of the toune officeris of Edinburghe, being enterit on pammell, dilatit, accusit and persewit, be dittay, producit be Mr Thomas Hammiltoun of Drumcarne, aduocat to our souerane lord, for the trefsonabill and ignominious dishonouring and defaming, sa far as in him lay, of our souerane lord the Kingis Maiestie, be taking of his hienes portratour to the public mercat place of this burgh, and thair schamefullie and wyildlie (*vilely*) setting the samyn to the stowpis and vpperaris of the gibbet; and in mair, and manifest and trefsonabill contempt and disdane of his Maiestie, he stuid vp vpoune ane buird or furme, besyde the said gibbet, and cald ane naill thairin, sa heich as he culd reiche it, and listit vp his hienes portratour foirsaid, and held the samyn vpoun the gibbet, preiffing to haif hung the samyn thairin, and to haif left it thair, as ane ignominious spectacle to the haill world; gif he had nocht bene stayit, be the just indignatione of the haill people, minassing to stane him to deid, and pulling him perforce fra the said gibbet, to stay his trefsonabill fact foirsaid; committit be him, vpoune the xv day of Apryle instant.

VERDICT. The Assyis, be the mouth of the said Johne Rankene, chancillar, stand, pronunceit and declarit, for the maist pairt, the said Archibald Cornwall to be fylit, culpabill and convict of the trefsonabill setting of his Maiesteis portract to the tramme of the gibbet; and presenting of the samyn, to be hung heich vpoun ane nail infixt in the said gibbet.

SENTENCE. For the quhilk cause, the said Justice-depute, be the mouth of Robert Galbraith, dempstar of the said Court, decernit and ordanit the said Archibald Corneuell to forfalt lyffe, lands and guidis, and to be tane to the said

gibbet, quhairvpoun he preiffit to hing his Maieftis portratour, and thairon to be hangit quhill he be deid; and to hing thairvpoun, be the fpace of xxiiij houris, with ane paper on his foirheid, contening that vyild cryme committit be him.

(1.) NARRATIVE *taken from Wodrow's MSS.*¹

IN the faid moneth of Aprile (1601), one of the officeris of Ed^r, having rowping at the Croce of Ed^r certane poindit geir, amang the quhilk the Kingis picture wes; and to the effect that the bred² and picture nicht be the better fene (the officeris fand being hard befyde the gibbet) vndifcretlie and rafchelie the officer wes calling³ in ane naill in the gibbett, to haue hung vp the bred, as wes reportit, and yit hang not vp the famin, bot ceiffit, being admonifchet be fum of the pepill ftanding by, that it wes not weill done to put vp ony naill to the effect foirfaid: Allwyfe, vpoun the faid prefumptioun, the officer wes challengit and put in wairde, within the tolbuith: And the Kingis Maieftie, being informit thairof, caufit examine certane witneffes thairvpoun; and thairefter the faid Officer wes put to ane Affyfe, and convict vpoun the faid prefumptioun; and dome gevin vpoun him, to be hangit xxiiij houris, with ane paper on his foirheid, declairing the faid caus. Lyke as, he wes fua done with, vpoun the faid xxvij of Aprile, about fax houris at evin; and fufferit to hing on the gibbet quhill the next day, at evin, at the fame time: And thaireftir, the gibbet wes takin down and brunt with fyre.

(2.) ACCOUNT *taken from Calderwood's MS. Church History.*

Apr. 27, 1601.—UPON the fame Mounday, at fax houres at even, ane Officer of Edinburgh, named Archibald Cornwall, was hanged upon a gibbet, at pe Croffe of Ed^r. At pe rowping of fome poynded gear, at pe Croffe of Edinburgh, finding a broad wherein was the King's picture, and ftanding hard befide the gibbett, undifcretly and rafhly was driveing in a nail in the gibbett to hing up the board, as was reported: but being admonifhed by fome of pe people ftanding by, he ceafed and lianged it not up: Alwayes, upon the fame prefumption, he was putt in waird, in the jayle. The King, being informed, caufed examine certaine witneffes; and thereafter, he was putt to ane Affife, convicted and condemned to be hanged, and to hing twentie four houres, with a paper on his forehead: which was done; and thairefter the gibbett was taken down and burnt with fire.

(3.) EXTRACTS *from THE RECORDS of the Town Council of THE CITY OF*
EDINBURGH.

Apr. 17, 1601.—FOR the honour and reverence thai aught to our foueran lord, his darrest fous and children; Statutes and ordanis, that nane of thair Maieftis and graceis pictures and portraits be poyndit, rowppet or compryfet, for ony maner of caus, publictlie or privatlie, heirefter: Difchargeing thair officeris and feriandis of the fam and of thair offices in that pairt, vnder the payne of tynfall of thair faid offices, and wairding of thair perfounis for the fpace of twenty dayes.

(Apr. 22.)—The Bailleis, deyne of gild, thefaurer, and maift pairt of the Connfall being convenit, appoyntis George Todrig baillie, David Williamfoun and Patrik Sandelandis, to pas to his Maieftie, prefentlie at Dalkeyth, and to inform his Maieftie of the trewth, anent the offence confaet be his Maieftie aganis Archebald Cornuell, officer, for the alleget hinging of his Maieftie and fous picture at the gibbet, in ane rowping.

(May 1.)—Thomas Hammiltoun appointed in place of 'vmq^{le} Ar^d Cornuell.'

(4.) COMMISSION OF JUSTICIARY *to Robert Lord of Roxburgh, for the Tor-
ture, Trial and Execution of Mr Peter Nurne.*

JAMES, be the grace of God, King of Scottis; To all and findrie our lieges and fubditis, quhom-

¹ Wodrow's MSS. Adv. Library, Edinburgh, Vol. IX. Rob. III. 2, 9. ² Board; a painting on panel. ³ Driving.

ever it effeiris, to quhais knowlege thir our letters fall come, greeting. FORSAMEKLE as MR PETER NARNE, having maist traiterouslie devist and conspyrit the Murther and destruction of Englishmen; and for executioun of this vyld and abhominable fact, haveing trained thame within oure realme, promissing unto thame to get thame advancen in credite and service with us; and haveing brocht thame to the town of Kelfo, he thair resolvit to have accomplishen his said vyld Murther; and being in the actual executioun, he was, be the providence of God, stayed, the pur innocent strangeis relevit, and himself apprehendit, and is presentlie in handis. Quhilk vyld and detestable coyfnage and Conspiracie of an intendit and conspyrit Murther, being of so rare ane example and preparative, and carrying with it sa foull ane sclander and reproche to our natioun, giff the same be not accordingly tane order with and punisheit: And albeit, thair be na law maide againe practizars and Conspiratours of ane Murther, unexecute; and that this fact, naikedlie considerit, will not appeir puneithable to the death; yet We, haveing regaird to the circumstanceis thair of, with the interest quhilk it carryis to our service, and the sclander and reproche to our natioun, We have thairfor, of our awin absolute auctorite and power, Ordanit the said vyld and detestable Conspiracie to be puneisheit to the death; to the terror of all uthiris to interprise the lyke heireftir. For quhilk purpois, We have maid and constitute, and be the tenor hei of Makis and Constitutis, our richt trust coung and counfallor ROBERT LORD OF ROXBURGHE, our Justice in that parte, to the effect undirwritin; Gevand, Grantand and Committand to him, our full power and Commissioun, expres bidding and charge, to try and examine the said Mr Petir, upoun the forme, maner and circumstanceis of the said Conspiracie, and upoun the vyld Murther, quhairof he is suspect gilty; And, giff neid beis, for the better discoverie of the treuth, to put him to Tortour: As alswa, to put him to the knowlege of ane Affize for the same, and giff he cry gilty of the said Conspiracie and intendit Murther committit be him, that he caus execute him to the deid for the same; and in special, for the foull and treterous Conspiracie foresaid: And for this effect, Justice Courtis, at quhatfomevir placeis convenient, to sett, begyn, affix, have and continew; fuitis to make to be callit; absentis to amerciast, unlaws and escheitis of the saidis Courtis to ask, lift and raise, and for the same, giff neid beis, to poind and distrenzie; Assifers neidfull to this effect, *respective*, under the pane of fourty pundis, to summond, warne, cheis, and cauis to be sworne; clerkis, serjands, dempstairs, and all uthir officiars of Courte neidfull to make, ereat and ordane, for quhome he sal be haldin to answer; and generallie, all and findrie uther thingis to do and use, quhilk for executioun of this our Commissioun ar requisite and necessar; ferme and stable halding, and for to hald, all and whatfomevir thingis in our name fall be done herein. Given undir our signet, and subserivit with our hand, AT BRECHIN, the tent day of October, and of our reign the xxxv, and yeir 1601.

(Locus sigilli.)

JAMES R.

Breaking into the Lord Chancellor's House—Theft, &c.

May 7.—WILLIAME CREYCHTOUNE, sumtyme indweller in Edinburgh.

Dilatit and accufit, fforfamekill as he, accunpaneit with John McCulloch and Robert Ahannay, laitlie, in the moneth of September lastbypast, cam to Johnne Erle of Montrois chancellaris house, besyde the Abay of Halyruidhous, and thair, vnder sylence of nycht, brak the samyn, and thifteouslie stall, conceit, reslett and away-tuik furth thair of, fourtie-fyve pound pecis, ane cloik, twa dowblettis, ane bow and foure arrowis, with ane pair of silk schankis, pertening to James Grahame, sone to the Chancellor, and vther seruandis to the Chancellor: Att the leist, for airt and pairt of the steilling, concealing and away-taking thair of.

As at mair lenth is contenit in the Dittay, quhilk wes verifeit be his awin Depositionis and Confessionis.

VERDICT. The said Williame wes putt to the knowledge of ane Assyse, and thay being chofin, fworne and admittit, be the mouth of George Frensche in Edinburgh, chancillar, stand, pronunceit and declarit the said Williame Creychtoun to be ffylit, culpabill and convict of the crymes foirfaidis.

SENTENCE. ffor the quhilk caus, the said Justice-depute, be the mouth of Robert Galbraith, dempstar, ordenit the said Williame Creychtoun to be tane to ane gibbet to be affixit vpoun the Castel-hill of Edinburgh, and thairvpoun to be hangit quhill he be deid; and all his movabill guidis to be escheit, &c.

[*Mr Williame Hairt and Mr Williame Boirthuik, Justices-deputes.*]
**Treason—Purchasing, Forging, and Vending of Counterfeit and
 Adulterated Coin—Theft, &c.**

Maij 29.—THOMAS M^cALEXANDER of Drummoichreyn; James Johnestoun, sone to . . . Johnestoun in Kirkcaldie, funtyme seruitour to Johne Johnestoun, wryter; George Dowglas, funtyme in Bengoure, now in Edinburgh; Williame Maxwell, sone to George Maxwell in Haik; Cuthbert Home, sone to vmq^{le} Robert Home of Reidheuch; and James Moffat, sone to Moffet of Helbeth.

Perfewit be Mr Thomas Hammiltoun of Drumcarne, aduocat to our souerane lord, for his hienes interes, of the crymes following, that is to say,

DITTAY against M^cAlexander and Johnestoun,

FOR airt, pairt, red, counsale and conceiling of the tressonabill Outing^t amangis our souerane lordis liegis, in the Tounis of Gawyefyde, Dalfarf, Hammiltoun, Clochftane, Air, Irvin, and vtheris pairtis, of certane fals and counterfit ten schilling peices, to the similitude of his hienes trew coingie; committit ane yeir senfyne in harvest. *Item*, for airt, pairt, red, counfall and conceilling of the tressonabill forgeing, counterfitting, casting and prenting of xxx false ten schilling peiceis, within the citie of Glasgw, in Daid Hallis bak chalmer thair; quhair thay, togidder with vmq^{le} Marioune Hepburne and ane ferwand woman of hirs was lugeit; off the quhilkis, thay tressonablie outit ane to the said Daid Hallis wyffe; and the said Thomas M^cAlexander delynerit twa of the saidis pieceis to the said James Johnestoun, at the Bridgend of Glasgw; and als delyuerit to him fyve pundis w^t thair of, in ane lytill 3aird at the said Brigend, quhilk he tuk bak fra him agane. *Item*, for airt, pairt, &c. of the tressonabill fforgeing, prenting and casting in calmis³ of trie, fillit with calk,⁴ within the place of Tourlandis, of twa fals four merk pecis, to the similitude of his Maiesteis trew coingie of four merk pecis of silver; quhair of the said Thomas outit ane to ane honest man in Air: Lyke as, the said James, be directionn of the said Thomas, convoyit the calme out of Irving to the place of Tourlandis, quhair he and Sandie of Tourlandis wes present at the tressonabill forgeing of the saidis pecis, quhilk wer maid of ane pew-

¹ This term corresponds with the modern law term 'uttering'; literally, putting out, circulating. ² Probably for 'worth,' although it is also an usual abbreviation for 'wecht,' weight. ³ Moulds. ⁴ Wood bedded with chalk or plaster.

der plait: Committit in harviß, bygane thrie 3eir. *Item*, the said Thomas being accusit ffor airt, pairt, &c. of the tressonabill reßaueing fra George Dowglas, callit of Bengowre, of fourtie poundis in fals fyve pound pecis, foure pound pecis, and crounis, to haif bene outit amangis our souerane lordis liegis, as trew and guid gold; quhairof he outit twa fals crounis to Johne Johnestoun in Mayboill, and lent the rest thair of (except ane foure pound peace and twa crounis, quhilkis he refernit to him selff) to Gilbert Makalexander in Air; and delynerit the foure pound peace to Bruce, his seruant. *Item*, the said Thomas dilatit and accusit, ffor samekill as he, accompaneit with William Boirthuik of Johnestounburne and twa of his seruandis, betuix Martimes and 3will,¹ in the yeir of God Im.V^c.lxxxvij yeiris,² past owre att the Queinis-fferrie, towardis Castell Campbell, or thairby, quhair thay brak ane hous, and thifteouslie stail, concelit, reßett and away-tuik furth thair of foure hors, and cam about be Stirling to Falkirk, quhair his naig³ tyrit: And swa, wes airt and pairt of the thifteous steilling of the saidis foure hors. *Item*, the said Thomas being dilatit of airt and pairt of the thifteous steilling, concelling, reßetting and away-taking of ane naig fra ane seruand of the Erle of Cassilis, quhilk Bruce his seruand stail be his directionne, and William Maxwell delyuerit the samyn to Gylbert Mcalexander.

DITTAY against George Douglas, sumtyme in Bengoure, now in Edinburgh.

DILATIT for the tressonabill bying of fourtie pecis of fals gold, in fyve pound pecis, foure pound pecis and crounis, and the maist pairt of them wer crounis, fra vmq^{le} Dauid Johnestoune, quhilk he reßaut in the moueth of Junij, or thairby, in Kingorne, to be tressonabill outit; ffor the quhilk he payit fourtie merk in guid siluer, quhairof Johnstounburne, his pairtiner, payit tuentie merkis. Lykas, he, togidder with the said William Boirthuik, William Maxwell, ... Moirle and James Hoppringill his fernandis, past, at Mydsomer was ane yeir, to ane fair in Air, for outing of the samin, quhair he, in the said fair, coft⁴ ane broune meir;⁵ ffor the quhilk, he tressonabill outit and payit xxiiij poundis of the said fals gold: And als, bocht ane naig fra James Hammiltoune, seruand to the Maister of Cathcart; for the quhilk he tressonabill outit and payit xxvj or xxvij lib. of the said fals gold; The quhilk gold the said James Hammiltoune, being outand in Aire, for certane Lundoune wairis, the samin wes cryit fals; the said James immediatlie thaireftir followit the said George, fra the burcht of Air, be the space of foure myles, rast the countrey and owertuik him and his cumpny, and compellit him to reßaue the fals gold, and restoir the said naig to the said James Hammiltoune: Estir the quhilk, he, accompaneit with Thomas McAlexander apperand of Drummochryne, William Boirthuik of Johnstounburne and his seruandis, satt down be ane brae-syde, and pairtit⁶ the fals gold quhilk he left vnoutit,⁷ and delyuerit fourtie poundis worth thair of to the said Laird of Drummochryne, in fals fyve pound pecis, foure pound pecis and crounis; and outit and delyuerit to the said William Boirthuik, his pairtiner, tuentie poundis worth thair of; and reteuit thrie crounis thair of to him selff; quhilk he thaireftir outit and delyuerit to the said Williame Maxwell; and swa, hes committit Treasoun.

DITTAY of Williame Maxwell, sone to George Maxwell in Haik.

INDYTIT, accnsit and persewit, ffor airt, pairt, red, counfall and conceilling of the pairting of the said fals fyve pound pecis, foure pound pecis and crounis, quhilkis George Dowglas, callit of Bengoure, pairtit and delyuerit att ane brae-syde, cumand out of Air, att Mydsomer wes ane yeir, to Thomas McAlexander, apperand of Drummochryne, and Williame Boirthuik of Johnestounburne; quhairof he delyuerit fourtie poundis worth to Drummochryne, and xx lib. thair of to the said Williame Boirthuik, quha delyuerit the samyn to the said Williame Maxwell, quha convoyit it to Edinburgh; and att his cuming, restorit agane to the said Williame Boirthuik, quha thairefter outit ane of the saidis fals crounis in , and ane vther in Lauder; and thairby, the said William Maxwell committit Treasoun.

¹ Yule or Christmas.

² Anno 1598.

³ Horse, nag.

⁴ Purchased, bought.

⁵ Mare.

⁶ Parted, divided.

⁷ Uncirculated.

Item, indytit ffor the trefounable refflaung fra George Dowglas of thrie fals crownis, to be outit as guid gold amangis our foverane lordis leigis; quhairof he delyuerit ane to Jeane Reid, fpous to James Lewingftoune, in wad¹ of ane faiddill, and the vther twa he delyuerit to the Guidman of Johnftounburne. *Item*, accufit, fforfamekill as he, being in cumpany with vmq^{le} . . . Morlie, and being feruandis to Williame Borthuik of Johnftounburne, be his speciall directione and command, paft to Weft Lowtheane about Caldermure or thairabout, and thifteoufflie ftall, concelit, reffett and away-tuik furth thair of, twa meiris; quhilk he convoyit to the weft end of the toune, and thairfra directit thame hame with . . . Morlie to Johnftounburne; and cam in him felf to Edinburgh to James Lewingftounis hous thair, quhair ye mett the Guidman of Johnftounburne and tauld him how ye fped.

DITTAY againft James Moffet, fone to . . . Moffet of Helbeth.

FORSAMEKILL as he, accompaneit with Petir Daveis Johnftoun of Kirkhill, Thomas Stewart feruand to Rob of Kirkhill, Jony Lyall and Cryftie Brydene feruandis to the Guidman of Cairtertoune, and James Wilfoune vnder Geordie of Kinmonth, in the moneth of . . . I^m.V^c.lxxx . . . yeris, cam to ane hill pertening to Mr James McMath of Dalpever, and thair thifteoufflie concelit, reffett and away-tuik aff the famin, fourfcoir of fcheip, pertening to the faid Mr James; off the quhilk he gatt fourtene for his pairt.

DITTAY againft Cuthbert Home, fone to vmq^{le} Robert Home of Redheuch.

FORSAMEKILL as he, accompaneit with Johne Broderftanis, younger fone to Johne Broderftane, fefchour in Tranent, and Richard Paterfoune, in the moneth of March, or thairby, I^m.V^c.lxxxvij yeris, cam, vnder fylence and cloud of nycht, to John Creychtounis duelling-hous at Preftoun-grangemyll, and thair thifteoufflie brak the faid hous aboue the dur, enterit thairin, and brak vp his kift, and thifteoufflie ftall, concelit, reffett and away-tuik furth thair of, foure hundreth poundis worth of gold and filuer, or thairby, and maift crewallie dang the faid Johne Creychtoun and his wyff, and left thame for deid: Of the quhilk foume he gatt fiftie pound for his pairt. *Item*, ffor the thifteous Reffetting of faxtene fchep, or thairby, pertening to Sir Patrick Hepburne of Lufnes, knyght, and Williame Caldeleuch in Eifter Gemmilfcheillis, his feruand and fchiphird; quhilkis fcheip wes thifteoufflie ftollen be Mertene Hall: Committit in the moneth of Januar I^m.V^j.c. yeris. *Item*, ffor Commoun Thift, Commoun Reffett of thift, inputting and outputting of thift, fra countrey to countrey, fra land to land, bayth of auld and new.

FOR the quhilkis crymes, the faidis (perfonnes on pannell) wer putt to the knowledge of ane Affyfe, of the perfonnes after fpecifeit; they are to fay.

ASSISA.

Johne Stenhoip of Stenhopifmyll,	Johne Logane of Cowftoune,	Alexr Horfburcht of Horkas,
Williame McClellane Tutour of W ^m Annand in Tranent,		Johne Henderfoune in Preftoune,
Bombie,	Johne Fargnyfoune of the Yle,	Rob ^t Anderfoun burges of Perth,
Dauid Seytoun, elder in Tranent,	George Hereis, fumtyme of the	Williame Polwart, fumtyme of
Capitan Patrik Herring,	Kirktonne of Effie, now in	Rottinraw,
James Dalzell eldar, in the Wat-	Edinburgh,	Williame Halyburtoune, fumtyme
ter of Leith,	Johne Boifwall of Afflek,	of Inchkairney.

The Aduocat proteffit for Wilfull Errour, in cais thay acquit.

VERDICT. Efter the accusatioun of the faidis perfonnes be Dittay of the faidis crymes, quhilk wer verifeit be thair awin Depofitiounis and Confessioun, (the Affyis) removit altogidder furth of Court to the laich Counfal-hous; quhair

¹ Pledge, security.

thay, eftir cheſing the ſaid Johne Boifwall of Afflek Chancellar, reaſonit and votit vponne the ſaid Dittayis *reſpective*, and ewerie point thair of, &c. ; and be the mouth of the ſaid Chancellar ſtand, pronunceit and declarit the ſaid Thomas M^cAlexander and George Dowglas, James Johnſtoun, Willame Maxwell, James Moffett and Cuthbert Home, to be ffylit, culpabill and convict of ewerie poynt of the Dittayis *reſpective* aboue writtin, quhairof ewerie ane of thame *reſpective* wes accuſit, and quhilk wes laid to thair charge.

DOME pronounced againſt the Pannels.

FOR the quhilk caus, the ſaid Mr Willame Haert, Juſtice-depute, be the mouth of Robert Galbraith dempſtar, ordanit the ſaid *Thomas M^cAlexander*, as convict of Treafoun and theft ; *James Johnſtoun*, as convict of Treafoun ; *George Dowglas*, as convict of Treafoun ; *Willame Maxwell*, as convict of Treafoun and theft ; to be tane to the Caſtell-hill of Edinburgh, and thair to be wirreit at ane ſtaik quhill thay be deid, and all thair landis, heretagis, takis, ſtedingis, rowmes, poſſeſſiounis, cornis, cattell, guidis and geir, to be fforfaltit and eſcheit, and inbrocht to our ſouerane lordis vſe : AND als ordanit, be the mouth of the ſaid dempſtar, the ſaidis *James Moffett* and *Cuddie Home* to be tane to the ſaid Caſtell-hill of Edinburgh, and thair to be hangit vpoun ane gibbett, quhill thay be deid ; and all thair movabill guidis to be eſcheit and iubrocht to our ſouerane lordis vſe, as convict of the ſaidis crymes of Thift.

[*Mr Willame Haert, Juſtice-Depute.*]

Treason — Uttering baſe Coin, &c.

JUN. 6.—THOMAS GLASS in Fowles, and Johne Gib at the Wodheid of Condie.

THOMAS GLASS was dilatit for the treſſonabill Outing of xij falſe fyftie-ſchilling peiceis of gold, to the ſimilitude of our ſouerane lordis trew coinzie, amangis his hienes liegis ; off the quhilkis peiceis, he reſſauit foure fra v^mq^{le} Walter Murray in foure fra Johne Murray his brother, and foure fra Patrik Drummond of the Lenach. *Item*, for the treſſonabill reſſauing fra George Drummond, ſaidler in Perth, of twentie peice of falſe fyve-pund peiceis, hat-peiceis, and fyftie-ſchilling peiceis ; and for the treſſonabill outing thair of amangis our ſouerane lordis liegis, as trew gold ; quhairof he gaif ane pairt to Robert Schedden, nolt dryuer. AND ſiclyke, JOHNE GYB, for airt and pairt of the cunning in cumpany with v^mq^{le} Mr Willame Balfoure, brother to the Laird of Burlie. Johne Oliphant and v^mq^{le} Harie Cuke, his ſerwandis, Patrik Murray of Galwallis, his ſerwandis, in the moneth of Februar laſtbypaſt, vnder ſylens and cloude of nycht, and thair thiſteouſlie breking vp the dur of the ſaid hous, entering thairin perforce, and thiſteous ſteling, conceeling, reſſetting and away-taking furth thair of, ane purſe with foure ſcoir and twelf merkis, pertening to the ſaid Andro ; quhilk the ſaid Johne delyuerit to the ſaid Mr Willame ; togethir with ane horſe and ane meir, and his haill inſyecht pleneiffing.

VERDICT. The Affyis, be the mouth of William Stalkar, goldfmyth in Edinburgh, Chancellour, fand, pronunceit and declarit the saidis *Thomas Glas* to be flylit, culpabill and convict of the crymes aboue writtin, quhair of he was accusit; and als, fand and pronunceit the said *Johne Gib* to be flylit, &c. of the crymes whair of he was accusit and persewit.

SENTENCE. THOMAS GLAS to be tane to the Castell-hill of Edinburgh, and thair to be wirreit at ane staik quhill he be deid, and his bodie to be brunt in asses; and all his landis, heritageis, takis, stedingis, rowmes, possessionis, coirmis, cattell, guidis and geir to be forfalt and escheit to our souerane lordis vse, as convict of the crymes foirsaidis: AND als decernit and ordanit the said *JOHNE GIB* to be tane to the Castell-hill of Edinburgh, and thair to be hangit quhill he be deid; and all his movabill guidis to be escheit, &c.

Horse-stealing — House-breaking — Theft.

JUN. 18.—NICOLL *alias* NIKKIE MOFFETT, at the Brigend of Cramond, and David Adiesoune, sone to Johne Adiesoune, in Dyfert.

NIKKIE MOFFETT was dilatit and accusit for airt and pairt of the thifteous steling of twa naigis fra James Bannatyne, tennent to the Laird of Cleghorne, twa yeir senfyne or thairbye, furth of ane burnefyde bevest¹ Calder. *Item*, for airt and pairt of the thifteous steling of ane blak naig fra Patrik Clarksoune in Blakburne; of ane gray meir; and for commoune thift and commoune ressett of thift.—AND siclyke, DAVID ADIESOUNE being accusit for the steling furth of Margret Strathauchinis hous, in the Cannogait, of ane naipkyn, quhairin thair was xij aucht mark peiceis, ane hairt of gold, ane pair of grene silk gartonis, and ane cloik of Inglis hewit² grene claith, pertening to David Drummond, feruitour to Sir Johne Ramsay, committit at Martymes lastwas: *Item*, for bryking of Mark Lord Newbottill chalmer, and steling furth thair of ane veluot cloik, ane raise veluot gounne furrit, and vtheris guidis and geir: *Item*, for the thifteous steling furth of Robert Erskyne house, in the fit of the Cannogait, of certane gold, siluer, claythis, guidis and geir, with thre hundreth markis: *Item*, for commoune thift, &c.

VERDICT. The Affyis, be the mouth of Hector Davidsoune, sword-flipper in Edinburgh, Chanceller, found the pannels to be flylit, &c.

SENTENCE. To be tane to ane gibbet, standand vpoune the Castell-hill of Edinburgh, and thairvpoune to be hangit quhill thay be deid; and all thair movabill guidis to be escheit, &c.

¹ To the westward of.

² Coloured.

Striking a Person, while the King was sitting in Judgement, &c.

Jun. 20.—JOHNE DUNDAS of Newlistoune.

Dilatit for contravening of the Actis of Parliament, in stryking of Mr James Hammiltoune, sone to James Hammiltoune, at the Vest-port of Lynlythqw ; committit the 3d of ¹

PERSEWAR, Mr Robert Lyntonne, aduocat, substitute for Mr Thomas Hammiltoune.

PRELOQUUTOIRIS for the pannell, Mr Johne Scharpe, Mr Will. Oliphant, Mr Robert Leirmonth.

DITTAY against Johne Dundas of Newlistoune.

THAT quhair, be our fouerane lordis Actis of Parliament, maid in the moneth of Julij Im.Vc.lxxxxiij yeiris, it is statute and ordanit, that quhofoewir fall stryke or hurt in ony tyme thairestir ony persoune, before his hienes Justice or his deputis sittand in judgement, or within the inner 5ett of our fouerane lordis Palice, quhair his hienes fall mak residence for the tyme, or within the outar Tolbuith of Edinburgh, the tyme that the Lordis of his hienes Sessioun (sit) for administratioun of Justice, fall incur the pane of death, and falbe accusit criminallie thairfore ; as att mair lenth is contenit in the said Act of Parliament maid thairanent : AND trew it is and of veritie, that the said Johne Dundas of Newlistoune, being forzetfull of his dew obedience and reverence, quhilk he aucht to our fouerane lord and his hienes autoritie, laitie, vpoun the ferd day of Junij instant, he being within the Tolbuith of the burcht of Edinburgh, in the bak hous thairof, quhilk is betuix the owtar Tolbuith and the inner Tolbuith, his Maiestie being for the tyme, in proper persoune, sitand in the Inner hous with the Lordis of his hienes Counfall and Sessioun for administratioun of Justice, he than enterit in conference and speiche with Mr James Hammiltoune, eldest lauchfull sone to James Hammiltoune, att the West-port of Lynlythqw ; and estir sum contentious and hett langage past betuix 5ow (them) twa, 5e (he) maist dispytesfullie, butt respect or regaird of his Maiesteis personall prefens in the Inner-hous and Tolbuith, or to the tyme and place, the before none, in the tyme of the sitting of the Lordis of Sessioun, invadit and persewit the said Mr James, and straik him with 5our (his) neave vpoun the face, and had nocht fail5eit to haif followit out 5our (his) persuit, with all rage and crewaltie, againis the said Mr James, war nocht 5e (he) wes slayit be ane number of our fouerane lordis guid subiectis, awaiting in the Tolbuith vpoun his hienes, or vpoun thair awin actionis for the tyme : Quhairby he, be strykeing of the said Mr James vpoun the face, quhen our fouerane lord in proper persoun wes sitand in the inner Tolbuith, and the tyme that the Lordis of Sessioun wes sitand thair for administratioun of justice, hes incurrit the pane of death ; quhilk sould be execute aganis him, conforme to the said Act of Parliament, with all regour.

(The pannell) declarit, insafar as his Maiestie, as is contenit in the Dittay, wes sitand in the Tolbuith, the samin was by his knowlege ;² and that vpoun the occasionne of sum contentious wordis fallin furth betuix him and Mr James Hammiltoune, quhairwith he wes movit to mak sum mynt³ for revange thairof, and thairby maid sum truble in the Myd-hous, quhairwith his Maiestie is justlie offendit ; That he will cum in his Maiesteis will for ony fact or offence committit to our fouerane lord, or the Lordis of his hienes Sessioun, the tyme and place contenit in the Dittay ; to be confidderit be his Maiestie, according to his hienes guid will and pleasour, and according to his accustomit clemencie, schawin to vtheris his hienes liegis for the lyke crymes of before.

¹ The fourth of June instant. See Dittay.

² Unknown to him.

³ Attempt, motion.

With the quhilkis premisses, the Justice tuik him to be anisit quhill Tyifday nixtocum, the xxij day of this instant, that he mycht knaw his Maiesteis will thairin : And ordenit the Bailleis of Edinburgh present, to tak the said Johne Dundas to waird to the Castell of Edinburgh : And siclyke, causit Andro Home, one of the Officeris of Court, to warne the perfounes summond vpoun the said Johne Dundas Assyis, to compeir in the Tolbuith of Edinburgh to pas vpoun his Assyis, vnder the panis contenit in the Actis of Parliament.

Jul. 9.—THE following Precept ordanit to be insert in the buikis of Adiorvall.

REX,

JUSTICE, Justice Clark and your deutes. We greit 3ow hairtlie weill : Forfamekill as Johne Dundas of Newlistoune, being indytit and accusit in ane Court of our Justiciarie, haldin within our Tolbuith of Edinburgh, pe xx day of Junij lastbypast, for pe invading and persewing of Mr James Hammiltoune, lauchfull sone to James Hammiltoune, att pe West-port of Lynlythqw ; and strykeing of him vpoun pe face, vpoun pe ferd day of pe said moneth of Junij, &c. And We having ressauit the said Johne Dundas in our will, and having weyt and confidderit the haill circumstance of pe cryme contenit in pe said Dittay, and quhatsumenir thing wes done be the said Johne the day and place foirsaid ; the said Johne, according to our will notifeit be ws to him selff, hes payit the soun of ane thousand sewin hundreth and fiftie merkis, quhilkis wer debursit in sum of our necessar affairis ; quhairof we discharge the said Johne for ewir be pir presentis. And siclyke, according to our directioun gevin to him, as ane vpir pairt of our will, hes comperit in presens of our Chancillar, President and Lordis of Sessioune, thay being convenit in full nowmer in pe said Inner counsal-hous for administratioun of justice, and thair hes fullelie satisfeit pame for ony offence done be him to pame, the saidis day and place. We Will thairfore, and be pir presentis declairis, that the said Johne Dundas salbe fred and relewit furth of pe waird, quhairin presentlie he is ; and We command 3ow to freith and releve him of pe famin : As also, we declair that the said Johne Dundas fall nocht att ony tyme heirestir be indytit, persewit or accusit for ony fact or deid committit he him the day and place foirsaid ; bot We acqyite and mak him frie pairof in all tyme cuming : And thairfore We command 3ow, that, in our Justice-Court to be hauldin in pe said Tolbuith of Edinburgh, the said nynt day of Julij instant, in presens of pe said Johne Dundas, 3e mak publicatioun of pe declaratioun of our Will, estir pe forme and tennour of pir presentis ; and that the said Johne hes obeyit and fulfillit the famin in all pointis : Kepand pir presentis for 3our Warrant. Subferyuit with our hand, att Halryuidhous, the sewint day of July, the 3eir of God, 1^m.Vj^e. and ane 3enis.

(Sic subscribitur)

JAMES R.

MONCRIEF CANCELLARIUS. FYVIE SECRETARIUS. HOME COMPTROLLER. J. HALYRUIDHous.

Namesucken — Brigancy — Oppression — Horse-stealing — Foraying, &c.

Aug. 1.—THOMAS CWNINGHAME, sword-slipper, serwand to (Williane Cwninghame) the Laird of Tourlandis.

Dilatit of certane crymes of Thift, and for taking of captive and presoner Patrik Gemmill.

DITTAY *against the Pannel.*

THOMAS CWNINGHAME, sword-slipper, sumtyme seruitour to Williane Vaus, armorar in the Canogait, being enterit on pannell, dilatit and persewit : Forfamekill as he, accompaneit with Alexander

and Hew Cwninghames, breper to the Laird of Tourlandis, vmq^{le} Johne Cwninghame alias Potter, Marioune Parker, Isobell Parker hir sister, Williame Speir, ferwand to the said Alexander, and ane vther boy, laitlie, in the moneth of Januar lastbypast, vnder feylenche and cloude of nycht, be way of Hamefuckin and Brigancie, come to Patrik Gemmill duelling-hous in Tempilhous, quhair he, his wyffe and familie was, in sober and quyet maner, takand the nychtis rest, dredand na evill or harme; and thair brak vp the dur of the said hous, enterit thairin perforce, and tuke the said Patrik and his wyffe furth of thair bedis, band his wyffe fit and hand, and kaist hir in ane mekill kift,¹ manassit² the said Patrik to delyuer to thame his siluer and gold; and becaus he refuset to do pe samyn, thay band ane redder³ about his nek, and hang him vp vpoune ane balk,⁴ quhair he hang ane lang space, quhill⁵ the said Thomas for pitie cuttit him doune; and thairefter thay pakkit vp his haill insyght guidis and ple-neissing in scheittis, and causit the saidis thre wemen convoy the samyn thisteoullie vpoune thair bakis: And thaireftir tuke and apprehendit the said Patrik Gemmill captiue and presoner, and convoyit him, being ane ageit man of threfoir of yeiris, in ane grit florme, be the space xxviij myles fra his awin house, quhill he come to Clyddisholme, quhair he was releuit be the Bailles of Lanerk: Vfurpand thairbye our fouerane lordis auctoritie vpoune thame; the said Patrik being his hienes frie liege; and the said Thomas was airt and pairt of the saidis crymes. ITEM, for airt and pairt of the cuning vpoune ane Sabboth day, ten oukis fenfyne or thairbye, in tyme of preching, accompaneit with Williame Cwninghame of Tourlandis, Alexander Cwninghame, his brother, vmq^{le} Johne Cwninghame, the pot-ter, and vtheris ferwandis of the young Laird of Blaquhannis, and vtheris thair compliceis, to the nowmer of xiiij personis or thairbye, and rynnng of ane forrow⁶ with the Laird of Cwninghames heidis tennentis, for the thifteous steling and reving fra thame of xij horse and meiris, qubilkis war fauld in the cuntrey. ITEM, for airt and pairt of the thifteous steling and away-taking of twa naigis, ane foir⁷ and ane vther broune, pertening to Thomas Bigger in Byres furth of the landis of Warreikhill, committit in Junij lastwas. ITEM, for commoune thift, commoune reffett of thift, &c.

VERDICT. The Assyis, be the mouth of Johne Farguesoun of the Yle, Chancellor, ffind, pronunceit and declarit the said Thomas Cwninghame to be ffyld, culpabill and convict of the haill poyntis of the Dittay aboue writtin, and crymes thairin contenit.

SENTENCE. To be tane to ane gibbet, vpoune the Castell-hill of Edinburgh, and thairvpoune to be hangit quhill he be deid; and all his movabill guidis to be efcheit, &c.

Striking Ministers — Obstructing the Designing of Manse and Glebe.

Aug. 18.—SIR DAVID WOD of Craig, knyght.

Dilatit, accusit and persewit of the crymes following.

PERSEWAR, Mr Thomas Hammiltoune, aduocat to our fouerane lord.

PRELOQUUTOURIS for the pannel, Mr Johne Scharpe, Mr Lowrence M^cGill, Mr Robert Cokburne.

DITTAY against the Pannel.

FORSAMEKILL, as it is exprellie statute and ordenit be Act of Parliament, maid in our fouerane lordis Parliament, hauldin and begun att Edinburgh, the xxix day of Julij, the yeir of God I^m.V^c. lxxxvij yeiris, that quhatsumewir perfoun or personnes invadit ony Minister, or puttis ony violent

¹ Chest.
or predatory incursion.

² Menaced, bullied.

³ 'Tether,' halter or rope.
⁷ Sorrel. Fr. saure, Ital. sauritto, a dark reddish colour.

⁴ Beam.

⁵ Until.

⁶ Foray.

handis in him, for feiking of thair lewingis,¹ or sic vther cauffis or quarrellis specifeit in the said Act, falbe pwneist thairfore with all regoure, and incur the pane of tinfall of thair movabill guidis for the said invasioun and violence allanerlie, albeit na Slauchter nor mutilatioun follow thairvpoun; the half of the said movabill guidis to be applyit to our souerane lordis vse, and the vther halff to the pairtie offendit, but² preiudice of the heichar pwneischment, gif ony gritar eryme concur with the violence and invasioun foirsaid; and to be callit criminallie thairfore, before our souerane lordis Justice or his deputtis, att particuler dyettis: As the said Act att mair lenth beris. And trew it is, that Sir David Wod of Craig, knycht, accompaneit with vtheris his complices, with convocatioun of our souerane lordis liegis, to the number of tuelf persounis or thairbye, all bodin in feir of weir with swordis, gantilletis and vtheris wappinnis, *inuaftue*, incontrair the tennour of the Actis of Parliament, laillie, vpoun the xxvj day of March lastbypast, cam to the Kirk of Fordoun, and to the landis occupyit be lyand befye the said Kirk, and within the Sheref dome of Kincardin, quhair Mr Adam Walker, Minister att Fordoun wes, accompaneit with sum of the Presbiterie of the Mernis, according to the ordinance of the Act of Parliament, and the directioun of the said Presbiterie, cum to haif designit³ ane Manse to Patrik Bonkle, principall Minister att Fordoun, and to his successouris; dredand na ewill, harme, iniurie or peruit of ony persoun, bot to haif lewit vnder Godis peax and our souerane lordis; and thair, fyrst boistit,⁴ manassit and threatint the saidis Ministeris, and speciallie the said Mr Adam Walker, for thair bodellie harmes; and thairefter, sett vpoun the said Mr Adam Walker, and invadit and strak him with the gaird of his sword vpoun the heid, putt violent handis in him, and with his sword, behind his bak, strak att him, and dang him to the eird;⁵ and with thair drawin swordis hurt and woundit him in baith his handis, to the effusioun of his blude in grit quantitie; and thairby, for the quarrell of the designatioun of ane gleib⁶ and manse, quhilk is ane pairt, at the leill, fould be ane pairt, of the said Mr Adamis lewing, he beand ane of the Ministeris of Fordoun, and helper to the said Patrik Bonkill to the cuir⁷ thairof, thay haif put violent handis in the said Maister Adam, invadit, straik, dang and bled him with the gairds of thair swordis, and with drawin swordis, in maner foirsaid; and he wes airt and pairt thairof: Quhairby he hes incurrit the payne of tinfall of all his movabill guidis; the ane half thairof to be applyit to our souerane lordis vse, and the vther half thairof to be applyit to the vse of the said Mr Adam Walker, as partie offendit.

The pannell takis instrumentis of his entrie, and proteftis for releve of his cautioner summond for his entrie; and that thair is na partie persewar bot my Lord Aduocat; and that na persoune assistis him in this peruit; and that the lettres ar rasit at his lordschipis instance allanerlie.⁸

The Aduocat passis fra all vther persounes, nor⁹ the Laird of Craig; and passis fra that pairt of the summondis, ordaning ony vther persounes guidis to be escheit, *pro loco et tempore*.

The Judge declaris, that na pairt of the pane contenit in the Act of Parliament fall fall to the pairtie,¹⁰ bot only to the Kingis pairt, conforme to the Act of Parliament.

¹ Livings, stipend.

² Without.

³ To designate or appoint a place for the Minister's

manse, or dwelling-house, &c.

⁴ Intimidated, brow-beat.

⁵ Struck him to the ground.

⁶ The glebe (*gleba*) is a piece of arable and pasture ground, uniformly allotted to the Parochial Clergy of Scotland, and usually adjoining the manse.

⁷ Viz. the cure of souls.

⁸ At the instance of the public prosecutor alone; not at the instance of the private party, with the Lord Advocate's concurrence.

⁹ Excepting, but, other than.

¹⁰ Viz. that the private party injured shall have no share of any penalties which might be awarded; but that the whole should fall to the Crown, as sole prosecutor.

It is alledgeit be Sir David Wod, that this mater aucht nocht to be putt to ane Affyis, except it wer verifeit, be writt, that Mr Adam Walker is the Minister of the Kirk of Fordoun, and that he had commissiounne to mak designation of the gleib and manse that day. Answeris the Aduocat, that the alledgeance aucht to be repellit, in respect of the Act of Parliament and of the summondis; and thay thingis are *meri facti*, and only pertinent to the Affyse.

Forder, it is allegeit be the said Sir David and his preloquuntouris, that the lettres ar alluterlie¹ irrelevant, takand thair ground and fundament vpoun thais wordis of the Actis of Parliament, ‘anent the invasioun and putting of violent handis in ane Minister, vpounne quarrell, for seiking of his lewing;’ and that particuler cause is only proponit in this lybell; and it is subsumit, that diuerse of the Ministeris of the Mernis, and speciallie the said Mr Adam Walker, wes boistit and manassit² the day lybellit, quhilk alledgeit boisting and manassing is na relevant cause to induce the penaltie lybellit. Forder, that pairt is generall, nocht condiscendand vpoun the names of the vther Ministeris. *Item*, thair is ane manifest irrelevancie in ane vther pairt of the saidis lettres and subsumptioun thairof, berand, that the gleib alledgeit designit wes ane pairt of the said Mr Adam Walkeris lewing, att the leist fould be ane pairt thairof, becaus he is alledgeit to be successeur to Patrik Bonkill, quha be the letteris thame selffis is grantit to be the Minister of Fordounne: As also, it is grantit that the said pretendit designationne wes maid be the said Patrik, and swa is grantit to be alluterlie the said Patrikis lewing: And the Act of Parliament vnderstand in that pairt, to be, of the lewing of the personnes that ar offendit, and nocht of the lewingis he hopis for to be successeur; quhilk is *de futuro contingenti*; for he may be depyrvit, or deceise, before the deceise of Patrik Bonkill.

The Aduocat repeatit the summondis and Act of Parliament, for ane answer.

The Judge, in respect that this summondis is only execute aganis the Lairdis selff, quhairby he is accusit vpoun his awin deid done be him to Mr Adam Walker, alledgeit Minister att the Kirk of Fordounne, and craving designation of the gleib and manse, as the said summondis beris, to Patrik Bonkill, principall Minister thairatt; and that his coadiutour wes strikin and invadit for that cause, sustenis the summondis.

Quhairvpoun Mr Thomas Hammiltoun askit instrumentis.

ASSISA.

Willame Raitt of Halgrene,
Robert Arbutnet, feare of
that Ilk,
Johnne Allerdes of that Ilk,
Patrik Falconer of Kilhill,
Johnne Irving in Quhyterigis,

David Rait feare of Halgrene,
David Arbutnet of Fyndowrie,
Alexander Sybbald (Sibbett) in
Watterstounne,
Robert Strathauchin in Munbodo,
Andro Gray of Kinggornie,

Robert Rait in Silliestat,
Robert Arbutnet in Barkhill,
Willame Sybbald (Sibbett) in
Carnetounne,
Archebald Irving in Reidmyre,
James Tullo in Allertounne.

¹ Altogether, entirely.

² Intimidated and menaced or threatened.

The Aduocat proteftis for Wilfull Errour, in caife thay Acquyte; becaus the Laird of Craig hes confest the deid, and maid his repentance thairfore.

VERDICT. The Affyis, be the mouth of Robert Arbuthnet, fear of that Ilk, Chancillar, for the maift pairt, fand, pronunceit and declarit the faid Sir Dauid Wod to be Acquyte, cleane, innocent and clangeit of the haill crymes aboue writtin, quhairof he wes accufit and perfewit: Quhairvpoune the faid Sir Dauid Wod askit actis and instrumentis; and proteftit for his Testimoniall.

Sir Johnne Wifchart of Pittarro, knycht, Johnne W. his fone and air, Robert Falconer of Balandro, Johnne Allardes, fear of that Ilk, Johnne Ramsay, eldar of Balmayne, Alexander Lyndefay of Brodland and Patrik Craig in Kinneth, and ilk ane of thame, wes vnlawit in the pane of ane hundreth merkis, for nocht comperand on the faid Affyis.

Murder.

Nov. 13.—WILLIAME NUKILSOUNE (NICOLSOUNE) in Dirltounne.

Dilatit, accufit and perfewit,

FORSAMEKILL as he, and Adame Nicolsoune, his fone, with thair complices, being bodin in feir of weir, with swordis, forkis, quhingear and viheris wappynnis, *invasiue*, laitlie, vpoune the xiiij day of September lastbypast, haifing confaut ane deidlie hatrent and malice aganis vmq^{le} Williame Jakfoune in the Cannogait, for taking of ane schaeff of peis off thair land, sett vpoune him, vnder fcyence and cloude of nycht, befyde the Place of Dirltounne, quhair he was in sober and quyet maner for the tyme, doand his lesfull effairis and buffines, dredand na evill, harme, iniurie or perfuit of ony personis, bot to haif leuit vnder Godis peax and our fouerane lordis; and first straik him with ane fork in at the leask;¹ and thairefter, strake him with quhingearis aboue the left palp,² and throw the bodie; and thairefter, bure him to the faid Williamis duelling-houfe in Dirltounne, and caufit dicht³ the blude fra his woundis, and fyne tuke him furth of the faid houfe, and careit him to the Place of Dirltounne, and kaist him behind the yet thair of, to the effect that the faid crewall Murthour fuld nocht haif cum to lycht: And swa, maift crewallie and vmmercifullie flew and murdreift him; and he was art and pairt thair of.

VERDICT. The Affise, viz. ‘George Dewar feruitour to the Lady Gowrie, George Bettie, cuke and brewfter to her in Dirltounne,’⁴ &c., be the mouth of Hew Baillie in North-Beruk, chancelar, fand the pannell to be Innocent and Acquit of art and pairt of the Slauchter of the faid Williame Jakfoune, &c.

Murder of the Warden of the West Marches.

Nov. 14.—THOMAS ARMSTRANG, fone to Ringanis Thom. (In the Dittay he is styled ‘fone to Sandeis Ringane.’⁵

Dilatit, accufit and perfewit be Archbald Carmichell of Edrom, brother to vmq^{le} Sir Johnne Carmichell of that Ilk, knycht, Warden of the West Marcheis of Scotland, for the tyme, of the cryme following: that is to say,

¹ The groin or flank, sometimes spelt *leask* or *lisk*.
rest of no note.

² Breast.

³ Wipe off.

⁴ The

⁵ This last seems his proper designation, as the Dittay mentions ‘the faid Ringane (Ninian) his fader.’ The loose mode of designating persons, in the rank of life of the pannell, which was prevalent in the Borders at this period, is apt to lead modern readers into confusion as to identity of persons.

FORSAMEKILL as he, accompaneit with the said Ringane his fader, Lencie, Hew, Archie and Watt Armstrangis his brether, Sym of the Syde, Lencie of the Syde, Rob Sandie, Rob Scott, Thome Tailzeour, Williame Forrester, Williame Grabame of the Braid of the Grange of Medop, and divers vtheris his complices, to the number of xx, commoun thewis and traittouris, all bodin in feir of weir,¹ with jakis, steilbonettis, lances, hagbuttis; haifing, be the instigation of vtheris quhais names he knew, consultit, dewysit and interpryfit the crewall, tressonabill and schamefull Slauchter of vmq^{le} SIR JOHNE CARMICHELL of that Ilk, than Warden of the West Marcheis, vpoun ane Soneday, in the moneth of Junij, the yeir of God I^m.Vj^e. yeiris, att ane meitting at the fute-ball,² quhair diuers borderaris and freindis wes conuenit to that effect: Quhilk purpois being plattit and fett down³ be him and thame, and being fuirly aduertest that the said vmq^{le} Sir Johne was to keip Court⁴ at Lochmaben, vpone the morne thairefter, being Monunday and the . . . day of the said moneth of Junij, the yeir of God foirsaid; ffor executioun of the quhilk tressonabill and vngodlie fact, thay mett altogidder, att thair trytling place⁵ of the Blerieheid, quhair thay lay att waitt for the said vmq^{le} Sir Johne Carmichellis passling by; and as he wes in fobir and quyet maner passand by to the said Court, dredand na ewill, harme, iniurie or perfruit of ony personnes, bot to haif lewit vnder Godis peax and our souerane lordis, he being his Maiesteis Wardene for the tyme, thay altogidder fett vpoun him at the Rae-knowis, schott thair hagbuttis att him, and thairwith maist schamefullie, crewallie (and) tressonablie schot the said vmq^{le} Sir Johne Carmichell throw the body, and slew and mordreist him thair; vpoun fett purpois, provisioun and foirthocht felony.

VERDICT. The Assyis, be the mouth of George Ferrie, portioner of Restalrig, Chancillar, stand, pronunceit and declarit the said Thom Armstrang to be culpabill and convict of airt and pairt of the tressonabill and crewall Slauchter and Murthour foirsaid.

SENTENCE. For the quhilk caus, the said Justice-depute, be the mouth of Robert Galbraith, dempstar, Decernit and Ordanit the said Thom Armstrang to be tane to the mercat croce of Edinburgh, and thair his rycht hand to be strickin fra his arme; and thaireftir to be hangit vpoun ane gibbett, quhill he be deid;⁶ and thaireftir, to be tane to the Gallows on the Burrowmure, and thair his body to be hangit vp in irne cheinis;⁷ and all his movabill guidis to be escheit, to our souerane lordis vsf.

¹ Arrayed or furnished in warlike manner.

² At this period, especially on the Borders, it was by no means uncommon to have such meetings for playing at foot-ball, archery, &c.—and these games were often taken advantage of, for the perpetration of deeds of violence; at least, they were frequently terminated by bloodshed and violence, through the feuds of neighbouring clans or districts.

³ Plotted and arranged.

⁴ A Warden's Court, for punishment of excesses committed on the Borders, &c.

⁵ Appointed place of meeting.

⁶ Robert Birrel thus notices this event.

⁷ The 11 of July (1600), the Laird of Carmichael buriest; quha wes slaine be the Armstrangis and Carliles, he doing and executing his office of Wardenrie, vpone the 16 of Junij befoir.' He thus notices the execution of Armstrang and the Peck, whose trial immediately follows. 'The 14 of November, Thomas Armstrang and Adam Steill, alias callit the Peckit, wer baith hangit at the croffe. This Thomas had his hand strak aff with ane stroke, befor he wes hangit, becaus he wes at the slaughter of James Carmichael. This Peckit wes ane of the maist notabill thieffes that evir raid.'

This is the earliest notice in this Record of a Criminal being hung in chains which the Editor has yet met with, and was evidently, in this instance, suggested by the atrocity of the crime, and the dignity of the person so basely murdered. The deficiency of facts, in the earlier Volumes, may account for this circumstance; as the particulars were then seldom recorded.

Horse, Cattle, and Sheep-stealing — Slaughter, &c.Nov. 14.—ADIE SCOTT, callit *the Peck*.

Being enterit on pannell and accusit,

FOR the thifteous steilling, conceilling and away-taking of certane oxin, furth of the Drochellis, pertening to the Erll of Mortoune and his tennentis. ITEM, for airt and pairt of the thifteous steilling of certane scheip furth of ane rowme beyde Lammingtonne. ITEM, for airt and pairt of the thifteous steilling (and) conceiling of fourfeoir heid of nolt, furth of the landis of the Cairne, pertening to certane Lowthian men, quhilk wes in gerfing¹ on the famin landis. AND for airt and pairt of the slauchter of vmq^{le} Hary Rannald, feruitour to Sir James Sandielandis of Slewman-na-mure, and vmq^{le} Andro Smyth in Auchnowlis-hill, committit in the moneth of August, I^m.Vj^c. yeiris. ITEM, for airt and pairt of the thifteous steilling of foure hors furth of Corfwodburne, pertening to Sir James Sandielandis of Slewman-na-mure. ITEM, for airt and part of the thifteous steilling of xvj oxin furth of Lestoun-scheillis, pertening to Alexander Dowglas. ITEM, for airt and pairt of the thifteous steilling of certane guidis fra the Guid-wyff of Garvell-fute. ITEM, for airt and pairt of the thifteous steilling of certane guidis furth of Ingerstoun-burne, pertening to Rychard Hodge thair. ITEM, for airt and pairt of the thifteous steilling of certane claith furth of Caringtoun-mylne. ITEM, for the cuming to Johne Ker Minister of Lynis hous, breking thairof, taking of him selff presoner, and steilling of his infycht and pleneiffing furth thairof. ITEM, for airt and pairt of the thifteous steilling of twa naigis furth of Hairburneheid, pertening to Adame Johnestoun thair. ITEM, for airt and pairt of the thifteous steilling of threttie gers oxin² furth of Corfwodburne, pertening to certane Lowthean men. ITEM, for the steilling of certane oxin, pertening to Adamfonn in Lestounscheillis. ITEM, for the setting uponne vmq^{le} Rodger Schaw in Craiganbae, George Schaw thair, Quintene McMillane in Craigneill, Downie McMillane thair, Sandie McMillane thair, Johne Chalmeris in Clatteran-schawis, Johne McMillan in Dasseloch, George McMillan his brother, George McMillan in Craiginbae, Andro McMillan in Powfchaskene, James Reid in Stroneschaskene and Williame Gordoune in Knokschene, att the Sandiehillis; quhair he and his complices slew the said vmq^{le} Rodger Schaw in Craiginbae, and thifteouslie stall xxij naigis fra thame. ITEM, for airt and pairt of the thifteous steilling of nyntene nolt furth of the byre of Nether Quhitlaw, pertening to Thomas Ker of Caveris; committit at Martimes 1600 yeiris. ITEM, for Commoun Thift and Commoun Reflett of Thift, inputting and outputting of thift.

VERDICT. The Assise³ ffand, pronunceit and declarit the said Adie Scott to be ffylit, culpabill and convict of the haill cryme of Thift and slauchteris aboue writtin, laid to his charge.

SENTENCE. The Justice Ordanit him to be tane to ane Gibbett att the mercat croce of Edinburgh, and thairvpoun to be hangit quhill he be deid; and all his movabill guidis to be escheit, &c.

Uttering Adulterated Money, &c. — Treason.

Nov. 27.—GEORGE DRUMMOND, burges of Perth.

Dilatit and accusit of,

THE Treffonabill outing⁴ of fals and adulterat money, sic as Hatt-pecis,⁵ crounes, foure pound pecis,

¹ Grazing.
preceding Trial.

² Oxen sent from the Lothians to pasture or graze.

⁴ Uttering, issuing.

³ The same as in
⁵ An early coin of James VI. in which the head is surmounted with a hat, in place of the crown or laurel.

and foure merk pecis, amangis our fouerane lordis liegis, as trew money and coinzie, att the flairs of Perth, Striuling, and in vther mercattis in the North pairtis; quhill fals coinzie he bocht fra Hanis Johnestoune, Fleming, Charles Hereis, Fleming, and Arthour Smyth, a fynyth duelland befye Banff, and wes coinzeit be thame in Banff, Elgyn, Abirdene and Lenoeh, fyve or sax yeiris syne.

VERDICT. The Assyis, be the mouth of Petir Spens, dagmaker in the Can-nogait, chancellor, ffand, pronunceit and declarit the said George Drummond to be culpabill, ffylit and convict of the cryme of Treasoune aboue written.

SENTENCE. To be tane to the Castell(hill) of Edinburgh, and thair to be wirreit att ane staik quhill he wes deid, and his bodie to be brent in affis; and all his landis, heretageis, guidis and geir to be forfealtit, escheit and inbrocht to our fouerane lordis vfe, as convict of the saidis crymis.

[*Mr William Hairt, Justice-Depute.*]

ASSESSORS, Lords Halvuidhous, Dunkeld and Fentonbarnes.

Treason—Keeping the House of Cunninghamhead against the King's Commissioners — Slaughter.

Dec. 15.—WILLIAME CUNNINGHAME of Tourlandis.

Dilatit, accusit and perfewit be Mr Thomas Hammiltone of Drumcarne, aduocat to our fouerane Lord, of the crymis following, contenit in Dittay produceit be the said Aduocat.

DITTAY against the Pannel.

WILLIAME CUNNINGHAME of Tourlandis, ye ar indytit and accusit, fforfamekill as Alexander Cwninghame, your brother, and certane his complices, hyrit and condeuceit fuddartis,¹ haifing, in the moneth of March the yeir of God I^m.Vj^e. yeiris, tane the Hous of Cwninghameheid, and being chargeit be vertew of our fouerane lordis lettres to haif randerit the samin within², vnder the payne of Treffoune; Neuirtheles, it is of veritie, that ye, within fourtie aucht houris efter the taking of the said place, and eftir the charge gewin for randerin thair of vnder the paue of Treffoun, convoyit youre selff and enterit within the said place and hous of Cwninghameheid, and treffonablie assistit the said Alexander Cwninghame, your brother, in keping of the said hous aganis the Lairdis of Duntraith and Vrchill, his Maiesteis Commissioneris, quha wer aflageing the said place, and that be the space of xxiiij dayes eftir your entrie within the samin; during the quhill tyme, ye and your compliceis treffonablie fshot out of the said place diuers hagbutis att the saidis Commissioneris and thair assist-eris; committaud thairby oppiu and manifest Treasoune, and incurrand the tinfall of lyffe, landis and guidis; quhillis aucht and fould be execute aganis yow, with all regour. To the takin³ that ye ar gyltie of the said cryme, ye haif confest the samin, be youre Deposition. ITEM, ye ar indytit and accusit, fforfamekill as ye, accompaneit with Alexander Cwninghame, your brother, and vtheris your compliceis, being bodin in feir of weir, with fecreitis, steilbonnettis, dagis and pistolettis, prohibite to be borne, worne, vfit or fshot with, be our fouerane lordis Actis of Parliament, laitlie, in the moneth of September, or thairby, the yeir of God I^m.V^e.lxxxvj yeiris, haifing confaut ane deidlie feid, ran-cour and malice aganis vni^q^e James Stewinfoune in the Myltoune of Robertoune, come to the Landis of the Myltoune of Robertoune, quhair the said vni^q^e James wes in fobir and quyet maner, doand his lesull effairs and buffines, dredand na ewill, harme, iniurie or persuit of ony personnes, bot to haif

¹ Waged, or stipendiary soldiers.

² Left blank.

³ In proof, token, or testimony.

lewit vnder Godis peax and our fouerane lordis; and thair, with your wappinnis foirfaidis, maist schamefullie, crewallie and vnumerefullie slew the said vmq^{le} James; and ye was airt and pairt of the said crewall Slauchter; committit vpoun sett purpois and provisioun, and foirthocht fellony. To the taikin that ye ar airt and pairt of the said Slauchter of the said vmq^{le} James Stewinfoune, ye wes, vpoun the xxij day of Januar I^m.Ve.lxxxxvij yeiris, denunceit rebell and putt to the horne, for nocht comperand befor the Justice or his deputis, in the tolbuith of Edinburgh, the xxiiij day of November, the yeir of God foirfaid, to haif vnderlyne the law for airt and pairt of the Slauchter foirfaid; att the quhilk horne ye haif remainit continewallie senfyne, and as yit remanis: as the Letteris of Hoirning, produceit heirwith, beris.

PERSEWAR, Mr Thomas Hammiltoun of Drumcarne, Aduocat to our fouerane lord.

PRELOQUUTOIRIS for the pannell.

Mr Williame Oliphant,

Mr Johne Russell,

The Laird of Reidhall,

Mr Alexander King,

The Laird of Glengarnok,

The Laird of Capringtoun.

The Preloquutouris produceit ane Warrant of the Lordis,¹ commanding thame to compeir in Defence of the Laird of Tourlandis, now enterit on pannell; quhilk Warrant is subscryuit be the Chancellor, *in presentia Dominorum*.—The pannell takis instrumentis, that the Justice declaris that *Sir Johne Cockburne of Ormiston*, Justice clark, fall nocht be judge nor Assessour, nor yit Justice clark in this mater.² Alledgeis, that *Sir George Home*, thesaurer, can nocht be Assessour, because he may win and tyne in the cause, in caise of convictioun. The Aduocat ansueris, that the alledgeance aucht to be repellit, in respect he is nocht partie. The said Sir George Home declarit he wold nocht voit in that mater.—The Aduocat takis instrumentis of the admitting of my Loirdis of Halyruidhous, Dumkerd³ and Fentounbarnes to be Assessouris in this cause.

The pannell alledgeis, that he sould be cited vpoun fourtie dayes wairning, for the alledgeit Treasoun of keping of the hous. The Aduocat ansueris, that it hes bene the inviolabill practik, quhen ony is tane⁴ for Treasoun, to putt him to ane Assyis for the said cryme of Treasoun, but⁵ citatioun.

The Justice repellis the alledgeance maid be the pannell.

It is alledgeit that the Dittay is nocht relevant, in respect of the generalitie thair of, nocht condiscendand att quhais instance the charge wes gevin to rander the place, quhom to, or *ex qua causa*. The Aduocat alledgeis that it aucht to be repellit, in respect of the Dittay.⁶ Forder, the Dittay is nawyis relevant, becaus I wes nocht chargeit, nor na intimation wes maid to me of the charge,

¹ This form was usual, especially in cases of Treason, in order to screen Counsel from the consequences of defending one who must be inferred to have been most obnoxious to the King. A Supplication was, in the first instance, presented to the Lords of Council and Session, by the pannell, praying them to name 'prolocutors' for the defence, and suggesting various names. The prayer was generally granted, as a matter of course.

² 'Declinator' of the Judge was competent, on the ground of relationship, or that he had a pecuniary or other interest in the case, &c.

³ Bishop of Dunkeld?

⁴ Taken or apprehended and put in ward.

⁵ Without.

⁶ It will be noticed, in the course of this Collection, that this loose and unjust mode of answering a special objection was usually sustained by the Court, seemingly on the ground, that such must of necessity be held to be *inferred*, from the general scope of the Indictment. Much of the apparent obscurity in such matters, however, may arise, from the brief manner in which these circumstances are recorded in the Books of Adjournal.

nor na qualificatioun of the Dittay of my knowlege. The Aduocat anfueris, it aucht to be repellit, in respect of the Dittay.

The Justice findis the Dittay relevant, and refernes the haill defensilis proponit aganis the verificatioun of the Dittay to the Assyis; findis the proces for the slauchter.

The Aduocat passis fra the taking away of the horse, *pro loco et tempore*.

ASSISA.

Nicoll Carnecroce of Calfhill,	Capitan Patrik Herring,	Thomas Alexander, portionar of
James Weitchie of North Syntonne,	Archebald Layng, merchand thair,	Drummeldrie,
Robert Hepburne of Markill,	Johne Fairlie, merchand thair,	Willame Dowglas of Erlismylne,
Johne Baillie of S ^t Johnes Kirk,	James Johnestoun, merchand	Johne Dunbar of Moynes,
Edward Edger, merchand burges	burghes thair,	Thomas Hay of Scrogis,
of Edinburghe,	Robert Home of the Heuch,	Andro Logane of Grantoun.

Qubilkis persounes being chosin, sworne and admittit, eftir the accusatioun of the said Willame Cwninghame of Tourlandis, of the crymes contenit in the Dittay fairsaid; ffor Verificatioun of the fyrst poynt thair of, the said Mr Thomas Hammiltoun, aduocat, producit the said Willame Cwninghames Depositionis and Confessiounis; quhairof the tennour followis.

DEPOSITION and CONFESSION of the Pannel.

AT ED^R, the xij day of December, 1601 3eiris. In presens of Johne Erll of Montrois, chancellor, S^r George Home of Spott thesaurar, Mr Thomas Hammiltoun of Drumcarne Aduocat, Sir Johne Cockburne of Ormiston Justice Clark, and Mr Willame Haert of Lewielandis Justice-depute, WILLIAME CWININGHAME OF TOURLANDIS, being sworne, and being demandit, anent pe last taking of pe Place of Cwninghameheid and keping of pe samin, anfueris, that the hous wes fyrst tane be his broper Alexander, vponn quhais aduerteifment, vnderstanding that thair wes sum variance betuix him and the soddartis within the place, the deponer cam to pe place, and enterit pairin, and remanit within pe samin be pe space of twentie or xxiiij dayes; be pe quhilk space he wes besaiget be pe Lairdis of Dunraith and Vrchill, haifing the Kingis Commissioun; during pe quhilk tyme thair wes schuting out of pe hous and schuting in: Declaris, that his broper Alexander had nocht enterit in pe place of Cwninghameheid fourtie aucht houris, before the deponer cam to him; and the taking of pe place wes about March, 1600 3eiris: Denyis that he wes chargeit or putt to pe horne, for nocht randerig of pe Place of Cwninghameheid; bot his broper wes chargeit, vnder pe payne of Treasoun, befoir pe deponar enterit in pe hous, and gatt knowlege pairof quhen he enterit.

And als the Aduocat producit the Extract of the Lettres, vnder the signe and subseription of Mr Robert Young, for chargeing of the Toune of Glasgw to assilt the Kingis Commissioner, for Asslageing of the said hous, and to head fourtie hagbutteris thairto, in respect of the Commissioun and Lettres of Treasoun, direct and execute aganis the Laird of Tourlandis and his complices; quhilk wes disobeyit. Quhilk Extract of the Letteris, is of the dait, at Halyruidhous, the fewint day of March, 1600 yeiris.

And for verification of the last poynt of the Dittay, concerning the Slauchter of the said vniq^{le} James Stewinfoune, the Aduocat producit Extract of the

Letteris of Hoirning, vnder the subſcriptioun of Mr Johne Skene, clark of Register, quhairby the ſaid Williame Cwninghame of Tourlandis wes putt to the Horne.

VERDICT. Eftir productionne quhairof, and diuers alledgances maid aganis the famin, and anſueris maid thairto be our ſouerane lordis Aduocat, the haill perſounis of Affiſe paſt altogidder out of Court to the Counſal-hous; quhair, eftir cheſing of the ſaid Nicoll Carncorſe of Calfhill chancellor, &c, they ſſand, pronunceit and declarit the ſaid Williame Cwninghame of Tourlandis to be Cleane, innocent and acquit of airt and pairt of the Slauchter of the ſaid vniq^{le} James Stewinſoune, committit in the moneth of March, in the yeir of God J^m.V^c.lxxxvj yeiris, as the Dittay beris: AND als, ſſand, &c. the ſaid Williame to be ſſylit, culpabill and convict of the aſſiſting of Alexander Cwninghame his brother and his complices, in the keping of the Place of Cwninghameheid aganis the Lairdis of Duntraith and Vrchill, his Maieſteis Commiſſioneris; the ſaid Alexander being chargeit, vnder the payne of Treafoune, to haif randerit the famin, conforme to his Depoſitiounes, ſubſeryuit with his hand.

SENTENCE. To be tane to the mercat croce of Edinburgh, and thair his heid to be ſtrikin fra his body:¹ And als his lands, heretageis, takis, ſtedingis, rowmes, poſſeſſiounes, coirnes, cattell, guidis and geir to be ſſoirfaltit, eſcheit and inbrocht to our ſouerane lordis vſe, as convict of the ſaid cryme.

Adultery.

Dec. 16.—DAUID GRAY, fyſchemonger in Edinburgh.

Dilatit for the cryme of Adulterie, committit with Elſpeth Hiſlope, indueller in Edinburgh, and Margaret Gourlay, wedow in Edinburgh.

The ſaid Dauid confeſſis that he had ado with baith Elſpeth Hiſlope and Margaret Gourlay, as the Dittay beiris; bot kuawis nocht quhither the bairnis be his or nocht. For the quhilk he askis Godis mercie, and cummis in the Kingis will.

VERDICT. The Affyis, for the maiſt pairt, ſſylis Dauid Gray of the cryme foreſaid.

Dec. 26.—SENTENCE. The Juſtice, be the mouth of Robert Galbraith, dempſtar, Ordenit the ſaid Dauid Gray to be baneift the burcht of Ed^r, and during all the dayes of his lyff; and nocht to return thairin, without his Maieſteis licence, vnder the payne of deid: And als, Decernit and Ordanit the ſaid Dauid to pay to the Baillie of the Quarter of Ed^r quhair he duellis, the ſoume of fourtie poundis money, to be applyit to the vſe (of) the Kirk: And to paſs in waird in the Tolbuith of Ed^r, thair to remane quhill the ſamyn be payit.

¹ ' The 16 of December, ... Cuninghame of Tourlands beheidit at the croſſe, for Treafoune. —*Birrel's Diary*, p. 55.

[*Mr Williame Hairt, Justice-Depute.*]

ASSESSOURIS. My Lord Chancillar, The Bischop of Dunkeld,
The Lord of Halyrudhous, The Comptrollar, My Lord Collectour.

Slaughter — Wearing and Shooting Dags and Pistolets, &c.

Dec. 18.—THOMAS TRUMBILL apperand of Mynto ; David Davidfone of Kames ; George, Raff, James and Williame Davidfoune, his fones ; Jaquie Laidlaw of Rafflat ; Hector Trumbill of the Firth ; James Trumbill, callit *baneist James* ; Mark Trumbill in Bewlie ; Andro Trumbill, his brother ; Walter Trumbill, callit *Sir Davidis Wattie*.

Accusit and persewit be Mr Thomas Hammiltoune of Drumcarne, aduocat to our fouerane lord, for his hienes interes, being assisted be Mr James Ker, brother to vniq^{le} Thomas Ker of Craling, of the crymes following.

DITTAY against the Pannels.

FORSAMEKILL as it is statute and ordenit be diuers of our fouerane lordis Actis of Parliament, that na maner of persoun or persounes, of quhatsumewir estait, degrie or conditionn thay be of, fall schuit, weir or beir culveringis, dagis or pistolettis vpoun thair bodeis, or in thair cumpaneis, in ony pairt of this realme, ather to burecht or land, vnder the payne of cutting aff of the rycht hand, and confiscatioun of all thair guidis movabill, being convict be ane condigne Assyis thair of : Neuertheles, it is of veritie, that the saidis persounis, accompaneit with diueris vtheris thair compliceis, with convocatioun of our fouerane lordis liegis, to the number of xxx persounes or thairby, all bodin in feir of weir, with jakis, steilbonettis, lagbuttis, daggis, pistolettis, lances and vtheris wappinnis invasiue, of thair causing, command, assistance and ratyhabitoune, the saidis dagis and pistolettis being expresse forbidden, vpoun the fourtene day of September lastbypast, being the mercat and flair day of the burecht of Jedburghe, cam to the said burecht in ane professit hostilitie, nochtwithstanding publick Proclamatioun maid in our fouerane lordis name, and in name of Sir Andro Ker of Pharnyherst knyecht, Provest of the said burecht of Jedburghe, and of the bailleis thair of, that nane sould repair to the said flair or mercat bot in sobir and quyett maner, keping oure fouerane lordis and the said Provest and bailleis peax : And yit, in manifest contempt of the said Sir Andro Ker, thay haifing consaut ane deidlie feid aganis him and vniq^{le} Thomas Ker his brother, and haifing of lang tyme before invadit and persewit Thomas Ker of Caveris, thair freind and kynnisfowan, for his slauchter and hurt, and woundit him in diuers pairtis of his body, to the grit effusioun of his blude, nawyis repenting thame of thair former wickit deidis and wrangis, bot continewing thairin, thay addrest thame selfis before his ludgeing in the burecht of Jedburghe, foiranent the mercat croce thair of, he being within the samin in sobir and quyett maner for the tyme, with his (wife ?) and famelie : and thair, in publick mercat tyme of day, estir diuers bragis, insolent behavioure and manassingis vsit be thame foiranent the said Provest ludgeing, in contempt of him and his seruandis, seiking the occasioun of ane new quarrell, without ony offence, harme or iniurie done to thame, nocht only thay wure vpoun thair bodeis and in thair cumpaneis pistolettis and gunnis, bot als schot the samin att the said Sir Andro, his seruandis, and diuers honest inhabitantis of the said burecht, of sett purpois, provisioun, auld feid and foirthocht felony ; bot specially, schot the said vniq^{le} Thomas Ker and vniq^{le} George Glaidner, domestik seruand to the said Sir Andro : And swa, thay maist crewallie and vnmercifullie slew the said vniq^{le} Thomas Ker and vniq^{le} George Glaidner with thair wappinnis foirsaidis : And thay and ilk ane of thame ar airt and pairt thair of ; and consequentlie, thay and ilkane of thame ar nocht only gilty of the saidis slauchteris, bot lykewyis of schuiting and

weiring of the saidis dagis and pistolettis, in maner foirsaid; with convocation of our fouerane lordis leigis: And in respect thair of, thay and ilkane of thame aucht and sould be pwneit in thair personnes and guidis, according to the lawis of this realme, in example of vtheris.

PERSEWAR, Mr Thomas Hammiltoun of Drumcarne, aduocat to our fouerane lord; Mr James Ker, brother to (the said v^m^{le} Thomas and to) the said Sir Andro Ker of Phairnyherst.

PRELOQUUTOURIS for the pannell, Mr Johne Scharp, Mr Williame Oliphant, Mr Johne Daling, The Scheref of Roxburcht, The Guidman of Buchtryg, The Guidman of Hwtounhall, The Laird of Mynto younger.¹

Williame Erll of Angus comperit and defyrit Jaquie Laidla, duelland in Ancrum, quhill is ane pairt of the Regalitie of Jedburghie-Forreft, to be Replegeit to his Regalitie. The Justice findis him to be replegeit.

The pannell defyris that thir materis may be continewit quhill Tyisday,² and that it may cum *in pari passu* with the vther caus;³ becaus letteris being rasit be thame ofbefore, before my lord Justice and his deputis, againis the Laird of Phairniherst and his complices, to ane day of lang tyme bypast, before ony Lettres wer rasit be the partie aganis thame, it pleasit his Maiestie to command to desert that dyett: And summondis being rasit now be my lord Aduocat aganis bayth the parteis to this day, for deidis alledgeit committit be thame aganis vtheris⁴ vpoun ane day, viz. the xiiij of September last; it hes pleasit my lord Justice, with auise of the Nobill men, counsalouris and assessoris, to continew the persuit of thais parties nixtocum the xxij day of this instant; off all reason, this persuit aganis thame aucht to be continewit to the samin day; and tryell tane of the factis committit be ather of the parteis aganis vtheris, *pari passu*, and be ane Inqueist, but ony diuision of the caussis.⁵

THE JUSTICE, nochtwithstanding of the defyre, Ordanis proces.

The Aduocat declaris he will insist aganis all the personis enterit vpoun pannell: And passis fra thir wordis in the lybel, 'be way of Hamefucken.'

THE JUGE Ordanis the Aduocat to condiscend, in speciall, vpone the tyme of the hurting of the Gudman of Kaveris.

The Aduocat condiscendis and declaris the hurt done to the Gudman of Kaveris, wes committit be the haill persones perfewit, awcht yeris syne, or thair-by, lastbypast.

The pannell takis instrumentis of the Interloquuntour and the Aduocattis speciall condiscending vpone the tyme foirsaid of the hurting of the Gudman of Kaveris.—My lord Aduocat declaris he insistis aganis the pannell for the crymes of Slauchteris libellit, vpoune foirthocht felony; and for the bering and wering

¹ His name is only inserted at the second *dict*, after the case was continued to the Air of Roxburghie.

² Tuesday.

³ A counter pursuit against Sir Andro Ker of Phairnyherst, and others, which was delayed till Dec. 23, (q. v.)

⁴ Against each other.

⁵ Without any separation of these two cases.

of pistolettis; with convocatione, and being airt and pairt thair of.—The pannell allegit that the lybell, in that pairt anent the Convocatione, is na wyfe relevant, quhairvpone the perfonis vpon pannell or ony of thame may be put to the knowlege of ane Inqueist; vnder protestatioun, that thai one na wyfe grant the samyn to be of veritye; becaus the perfonis of the pannell, samony of thaim as convenit in Jedburgh, the tyme libellit, convenit at the command and directione of the Sheref of Roxburgh, quha ofbefoir, with concurse of the Laird of Phairnyhirft, than Proveft of the burgh of Jedburgh, had tane affurance betuix vni^{le} Thomas Ker and vni^{le} Robert Trumbill of Bewly and vtheris thair freindis; to the effect, that the Sheref mycht haif convoyit thame furth of the said burgh, but ony truill, at the Burne-wynd-Port, quhairin thai enterit, vpone conditione accordit vpone betuix the Sheref and the Proveft: Lyke as, the Sheref, according to the said conditione, convoyit thame furth of the said Point, in quyet maner, but offence of ony man; in respect quhair of, thair reparing to the said Sheref can nocht be comptit ony Convocatione, quhairvpone ony cryme may be inferrit; alwyfe this allegiance is proponit for the haill pannell, vnder protestatioun forsaid, that thai grant na Convocatione.

My Lord Aduocat askis instrumentis vpone the declaratioun forsaid, and that it is proponit for the haill pannell.

THE JUSTICE fyndis the lybell relevant, notwithstanding the allegiance; and Repellis the same *loco quo*; and Referris the cognitioun thair of to the knowledge of the Assyse.

Quhairvpoun the pannell askit instrumentis.—The pannell denyes ony bering or wering of hagbuttis or pistolettis the tyme libellit; and takis instrumentis that it is affermit in the libell, *disertis verbis*, that thai wer schot to the deid with hagbuttis and pistolettis.—My lord Aduocat askis instrumentis, that it is affermit in the lybell, that thai wer schot and slane with hagbuttis, pistolettis, ‘and vtheris wappynis.’

It is allegit be the pannell, that my lord Aduocat can never be hard to allege that thai wer slane with ‘vtheris wappynis;’ in respect of the exprefs affirmatioun in the lybell, that thai wer schott with hagbuttis and pistolettis.—My Lord Aduocat passis fra thai wordis in the lybell, ‘to be deid.’

The pannell defyrit tyme to avyse with the lybell, in respect of the passing fra the wordis forsaid be the Aduocat.

THE JUSTICE ordanis proces.

The procuratouris allegis for the pairt of the haill pannell, vnder protestatioun that he on na wyfe grantis the lybell, nor na cryme thairin contenit, nor na pairt thair of to be of veritie; that the pannell aucht not to be put to the knowlege of ane Assyse, becaus vni^{le} Thomas Ker and George Gladner, his servand, wer

ordourly enterit our fouerane lordis rebellis, the tyme of the allegit Slauchter; and proponis this allegiance vnder protestatiounne forfaid. And for verificatiounne of the said allegiance, produceit the extract of the Horning; be the quhilk lettres thai wer denunceit to the horne, for the Slauchter of vniq^{le} Henrie Olypher.

My Lord Aduocat allegis the saidis personis wer lawfully relaxit fra the Horning produceit, befor the cryme libellit; and thairfore the forfaid allegiance aucht to be repellit; and produceit the said Relaxatiounne; and askit instrumentis of the productionne of the Horning, and allegis the famin to be null, in respect of the executiounne not contening any copy of the saidis lettres to haif bene gevin to the said Thomas Ker and George Glaidner, or affixt vpone thair dwelling place. To the quhilk it is ansuerit be the pannel, that the said Horning is lawchfull, being for ane criminal caus, to witt, for Slauchter, quhilk meritit na favour; be the quhilk letteris thre personis being only summond to vnderly the law, Thomas Ker and George Glaidner ar bayth personally apprehendit,¹ and the personis lykwyse lauchfully summond at the market croce, and ane copy affixt; and the letteris beris expresly, that the messinger 'deliuerit to the said Thomas ane,' quhilk of all necessity man be supponit and pre-swmit to be 'ane copy,' being deliuerit be the officer, quha had na vther erand with the said Thomas, bot to charge him and deliuer him ane copy: And be the subiect of the letteris, can be referrit to na thing bot to ane copy; and the omiffiounne of that word in the extract of the Horning furth of the Register can nocht preiuge the partie.—Ansuerit my Lord Aduocat, that the Horningis, being of thair awin natour odious, and nevir vsit to ressave any favorabill interpretatiounne in jugement, this Horning being vsit to stay the tryell of the parties vpone pannell, for the crwell Slauchteris and vtheris crymes libellit, the Horning wanting ane necessar solempnity requisit be the Act of Parliament, is manefeist null, and sa can not stay proces.

THE JUDGE Repellis the allegiance proponit aganis the nullity of the Horning. Quhairvpone the pannell askit instrumentis.

My lord Aduocat ansueris, the saidis personis wer lawchfully relaxit fra the said Horning befor the crymes committit be the pannell and produceit the said Relaxatiounne. The pannell yit, as ofbefoir, desyres continuatiounne quhill Tyf-day, or to the morne, that thai may, in the mene tyme, aduysé with the Relaxatiounne produceit. My lord Aduocat craves proces, and dislasentis fra all continuatiounne.

THE JUSTICE ordanis forder proces.

¹ A technical phrase, employed when the officer 'serves' or 'executes,' as it is termed, the Letters or writ upon the party against whom directed, by delivering a copy to him personally.

It is allegit yit be the pannell, that in respect the maist pairt of thame hes bene detenit in waird this lang tyme bigane, swa that thai culd not provyde thame selffis for defence, and this Relaxatioune is bot laitylly produceit, and laitylly writtin as apperis, delay awcht to be grantit presently, in respect of the tyme of the nycht.—It is ansuerit be my lord Aduocat, sik ane allegiance blekket¹ never this buk ofbefore.—It is allegit, vnder protestatioune forsaid, that thir persones vpone pannell awcht not to be put to the knowlege of ane Inqueist, for the allegit Slauchter of the said vinq^{le} Thomas Ker, becaus, the tyme of the committing of the Slauchter, he wes enterit our souerane lordis rebell and put to the horne, and herewith produceit the said Horning, vsit at the instance of James Maistertoune, for nonpayment sevin scoir ten li. (L.150) mony, and xl li. for expenslis.—It is allegit be the pannell, that the Relaxatioune producit for the first Horning, vsit aganis Thomas Ker and George Glaidner, is null, becaus it is expresly providit be Act of Parliament, that all registrationis falbe in the Sheref Court bukis of the schyre quhair the pairtyes wer demuncit, or quhair thai dwell. This Relaxatioune is nether affermit to be registrat in the Sheref bukes nor be the Sheref clerk, nather declarand befor quhame it is registrate, nor be quhame, nor befor quhame it wes produceit.—The Aduocat ansuerit, the allegiance aucht to be repellit, in respect of the Relaxatioune produceit, quhilk is minut,² produceit and registrate in the Sheref bukes of Roxburgh, and subscryvit be the ordiner clerk thair of.—It is allegit be the Aduocat, that the Horning produceit, at the instance of James Maistertoune, aganis the said Thomas Ker (is null ?) becaus it is nocht lauchfully registrate, within xv dayes efter the denunciatioune, conforme to the Act of Parliament, nor yit subscryuit be the Sheref clerk.—It is forder allegit be the pannell, for the fortificationne of the allegiance proponit for the nullaty of the said Relaxatioune produceit, that it is null ; for this caus, becaus it is not registrate nor affermit to be registrate be ony Sheref clark ; and insafer as it apperis to be subscryvit be ane callit Dowglas, thair wes never ane of that name Sheref clerk of Roxburgh, except ane Mr George Dowglas, quha deceifit twa yeir before the said Relaxatioune ; and he never affermes him selff to be clerk to the Sheref of Roxburgh. My lord Aduocat ansueris, as ofbefore, the Relaxatioune is sufficient notwithstanding the allegiance, and declaris that this Relaxatioune was registrat be Mark Dowglas, Sheref Clerk of Roxburgh, quha wes reput sheref clerk, and vsit the office by registrationne of Horningis and Relaxatiounis, and geving furth of extractis thair of.—Vpone the quhilk declaratioune the pannell askis instrumentis ; and forder allegis, that Mark Dowglas wes never sheref clerk, nor affermes him to be sheref clerk, bot be the contraire, be deceis of Mr George Dowglas, Sheref clerk, Robert Trumbill wes lawfullie providit to

¹ Never blackened, defiled, disgraced.

² Minuted, noted in the 'Minute book.'

the said office, quha vsit and exerceit the said office of clerkship, dyueris yeris after the deceis of the said Mr George Dowglas.

The pannell declairis thai haif na mair to say, nor will say na mair, befor this mater be put to the knowledge of ane Assyse.

THE Juges continewis the said mater quhill the morne.

Dec. 19.—THE Aduocat allegis, that he will insist only aganis HECTOR TRUMBILL of the Firth, JAMES TRUMBILL, MARK TRUMBILL and ANDRO TRUMBILL.

It is alledgedit for the rest of the pannell, that my lord Aduocat can nocht pass fra thame, in respect of the stait of the proces, quhairin the pannell comperit and proponit sundrie defenss, quhairvpone Interloquuntouris ar gewin, with auise of the Assessoris: and eftir the proponing of the alledgancès and answers maid thairto, and Interloquuntour gewin be my lord Justice; partie being willing to abyde tryell of Justice, my lord Justice may nocht pass fra persuit in thair preiudice.

THE JUSTICE findis, that my lord Aduocat may pass fra thame.

The pannell allegis the Relaxatioune produceit, makis no mentioun that it wes registrate in the Sheref bukis of the sherefdom of Roxburgh; in respect quhairof, na respect aucht to be had to my lord Aduocatis allegiance made thairanent.

THE JUGE, *ex officio*, desyrit the ayth of James Dowglas of Kaveris, Shereff of Roxburgh, being present, gif he knowis that Mark Dowglas wes Sheref clerk of the said sherefdom, and wes in vse to keip Courtis, and register and extract Horningis; quha being sworne, declairis, he knew not the said Mark to be Sheref clerk, be his knowledge; and that he wes never ressavit nor admittit be him to the said Office of clerkship. Quhairvpone the pannel askit instrumentis.

My lord Aduocatt askis instrumentis that my lord Justice declairis he will heir the parties be word, (and) he will gif his Interloquuntour thairvpone.—It is answerit be the pannell, that the allegiance proponit be my lord Aduocat aganis the validity of the extract of the Horning producit, subseruyt be my Lord Clerk of Register, awcht to be repellit, in respect of the extract, quhilk is ane Extract furth of the Register of the Horningis of the Sherefdom of Roxburgh, and as the originall buk of the Register makis na mentioun of the clerk, swa the extract furth of the Register can mak na mentioun, becaus the Extract respectis the Register, and the Register of every sherefdom awcht not to mak mentioun of the clerk, of the productione of ilk fenerall horning; becaus it being the Register of the Sherefdom, is merkit be the clerk, quhilk is sufficient for the hail horningis thairin contenit: And my lord of Register makis na mentioun of the Sheref clerkis in the Extract of ony Horningis gevin furth be him; and

gif this Extract falbe fund null, for the argument foirfaid, the haill Extractis fubfcriuit be my Lord of Register, and the haill declaratiounis gevin be the Lordis of Seflionne thairvpone, will be fund null: And it is not proper for my Lord Justice to fynd all the faidis Extractis null, for the quhilk thair is ane fufficient Warrant be Actis of Parliament, gevand my Lord Register power to extract all Horningis furth of the Registeris, and that they fall mak als grate fayth as the principall; and gif flik ane Relaxatiounne had bene, as is now produceit, thefe wald haif bene alfo in the Register of that yeir.

THE JUGE ffyndis the Extract of the Horning produceit, vnder my Lord of Registeris fubfcriptionne, to be fufficient. Quhairvpone the pannell askit instruments.

It is forder allegeit be the pannell, that this Extract of the Relaxatiounne produceit, is nocht contenit in the Register of the Sherefdomme forfaid, nor is nocht contenit in the Register thair of that yeir, quhilkis ar extant in my Lord of Registeris handis.

THE JUSTICE Repellis the alledgance maid aganis the Relaxatiounne, and fuffenis the faid Relaxatiounne produceit.

Quhairvpone my Lord Aduocat askit instrumentis.

THE JUSTICE declaris he and the Affefforis will heir bayth the faidis parteyis, be word; and gif thair allegeanceis be worthy writting, he will heir thaim to writt; vthirwyfe nocht.

Quhairvpone my lord Aduocat askit instrumentis.

ASSISA.

Adame Quhytefurd of Myltounne,	Gilbert Pennycuik of that Ilk,	George Heiflop, armurare, burges
Neill Montgomerie of Langfchaw,	Petir Collace, indueller in the	of Edinburgh,
Matho Fynlafoune of Killeithe,	heid of the Cannogait,	George Waldye, fkyunner, burges
William Weir of Auchterfardell,	Andro Naiper, burges of Edt,	thair,
Robert Cairncorfe, burges of Edt,	Andro Scott, chirurgiean,	Johne Dowglas, burges thair,
James Hoppringill of Quhyte-	James Stalker, indueller in the	Williamme Fyddes, baxter, burges
bank,	heid of the Cannogait,	thair.

The quhilk day, James Ker, brother to the Laird of Phairnyhirft, being perfonally prefent in jugement, fwoir the Dittay to be trew, in prefens of the Affyfe; quhairvpone my lord Aduocat askit instrumentis.

To the taikin' that this deid being done vpone the Ruid day,² the ffair day of Jedburgh, be thir perfonis vpone pannell, thai wer takin ryd hand³ be the Proueft of Jedburgh; and at his Maiefties command brocht to the tolbuith of Edinburgh, and hes bene kepit captives thairin continually fenfyne.—The pannell takis instrumentis, that thair is na verificatiounne vfit nor produceit, for verifeing

¹ In proof or evidence.
fact, 'with the bludie hand.'

² Holy Rood, or Holy Cross day, Sept. 14.

³ Red-hand, in the

of the Dittay, bot the aith of Mr James Ker, informer. The pannell produceit ane Testimoniall, subferyuit be the Sheref, togidder with ane new Declaratioun of the maner and trewth of the Slauchteris of vmq^{le} Thomas Ker and George Glaidner; quhilk thay defyrit to be infert in proces.—The Aduocat protestis, that the informatioun of partie fould nocht be reffaut, nor the Testimoniall of the Shereff fould be reffaut.—It is agreit vpoune, that George Gybfoune and Williame Mayne fould be reffaut witnefs.

The Aduocat protestis, in refpect that George Glaidner is flayne with ane hagbut or piftolet, quhilk is na wappin of defence, bot vnlauchful wappin, in caife the Affyis Clange, for Wilfull errour. And the Pannel protestis for Wilfull errour, in caife thay Convict thame, albeit he wes flane with ane hagbut or piftolet, feing thay were nocht the flayaris of him, nor had na hagbut nor piftolet; bot thair wes that he gaue away with the faidis crymis.—And the Aduocat alledgis that the pannell are airt and pairt of the faidis crymis.

THE JUSTICE ffindis that the Testimoniall fould nocht be reffaut.

SPECIAL VERDICT *of the Affyfe.*

Quhilkis perfones of Affyis being fworne, &c. thay removit altogidder furth of the Court to the Laich-Counfal-hous, quhair, eftir chiefig of the faid Neill Montgomery of Langfchaw chancillar of the faid Affyis, and after examinatioun of George Gibfoun and William Mayne, burgeffis of Edinburgh, quha wer reffaut as witnefsis, with confent of our fouerane lordis Aduocat and of the perfones on pannell; and eftir lang reafoning and voting vpoun the poyntis of the Dittay foirfaid, being throwchlie auifit thairwith, thay reenterit agane in Court, in prefens of my lord Justice; Quhair thay, be the mouth of the faid Chancillar, ffand, pronunceit and declarit Hector Trumbill of the Firth, James Trumbill, callit '*baneiff James*,' Mark Trumbill and Andro Trumbill, brether to vmq^{le} Robert Trumbill of Bewlie, to be flylit, culpabill and convict of airt and pairt of the flauchteris of the faidis vmq^{le} Thomas Ker, brother to Sir Andro Ker of Pharneyhirft, and of vmq^{le} George Glaidner his feruand, committit vpoun the xiiij day of September laftwas, in the Barne-wynd of Jedburghe: And als, be the mouth of the faid Chancillar, ffand, pronunceit and declarit the faidis perfones to be Acquit of Convocatioun of our fouerane lordis liegis, and of bering, weiring and fchuting of piftolettis and hagbuttis, and of foirthocht felony, and of all the reft of the lybell.

The Justice thaireftir continewis all pronunceing of Dome, till he get his Maiefteis mynd thairanent; and committit the perfones convict to waird within the tolbuith of Edinburgh.

On Dec. 26, the following is inserted in the Record.

DOME ffor Andro Trumbill, brother to the Guidman of Bewlie.

Dec. 26.—THE JUSTICE, be the mouth of Robert Galbraith, dempftar of Court, decernit and ordanit the faid *Andro Trumbill* to be tane to the mercat-croce of Edinburgh, and thair his heid to be strikin fra his body; and all his movabill guidis to be efcheit and inbrocht to our fouerane lordis vfe, as convict of the faidis crymes. Quhilk wes pronunceit for dome.

**Shooting with Hagbutts, &c.—Slaughter—Demembration—
Convocation of the Lieges, &c.**

Dec. 23.—SIR ANDRO KER of Pharnyherst, James Ker of Lyntellie, Williame Ker, his sone; Michael Ker in Oxnem, (stewart to the Laird of Pharnyherst,) David Anislie, younger in Falaw, Johne Anislie, his brother, Lancelot Anislie in Oxnem, Adame Anislie, his sone, Thomas Robsoun, callit *Prettie-fit*; Matho Robsoun in Burnesit, Thomas Gay in Tounheid, John Gay thair, Williame Rutherford, callit *Gray Will*, burges of Jedburghe; Johne Rutherford, his sone; James Hislop in Eschiesteill, Mr James Ker, brother to the Laird of Phairnyhirst; Williame Robsoun in Burnewynde, Thomas Ker, brother to *George the Browster*.

Dilatit for contravening of the Actis of Parliament, in beiring, weiring and schuting with hagbuttis and pistolettis: And als, for airt and pairt of the slauchteris of vmq^{le} Robert Trumbill of Bewlie, and vmq^{le} Johne Middilmest, brother to Williame Middilmest of Lillie-chapell: And for airt and pairt of the schuting of James Dowglas, apperand of Todhoill, with twa bullettis in the wambe, hurting and wounding of him thairwith: And als, for hurting and wounding of James Dowglas in Cruik, in the neise, and demembering of him of ane pairt thairof: And for demembring of Henrie Davidfoun, sone to David Davidfoun of the Kamis, of his rycht hand: And for demembring of Mark Trumbill, brother to the said vmq^{le} Robert Trumbill of Bewlie, of the thowme of his left hand: And for demembring of Andro Trumbill, his brother, of the lytill fingar of his left hand; and for hurting and wounding of Williame Trumbill in Tounheid, in the wambe, be the schot of ane pistolet with twa bullettis; committit the xiiij day of September lastbypast: With convocatione of our souerane lordis leigis; vpoun fett purpois, provisoun, auld feid and foirthocht felonye.

PERSEWARIS, Mr Thomas Hammiltoun, aduocat, Nicolas Trumbill, the relict of vmq^{le} Robert of Bewlie, Thomas Trumbill, apperand of Mynto.

PRELOQUUTOURIS for the pannell, Mr Johne Russell, Mr Thomas Craig, Mr Johne Leirmonth.

Comperit Williame Erll of Angus, lord of the Regalitie of Jedburghe-fiorrest, and desyrit the persones following, duelland within the boundis of the said Regalitie, to be replegit to the privilege thairof: to witt, Sir Andro Ker, &c.; and produceit his Infeftment of the Regalitie, contenand expres privilege of Regalitie, and desyrit the said personis to be repledgeit.

The Aduocat allegis, that the said Laird of Pharnyherst, and remanent personis, can nocht be replegit; becaus the seasing prewis nocht Pharnyherst to be in Jedburghe-fiorrest, or within the regalitie thairof; and except he preve itt,

thay can nocht be hard to replege. The Lord Angus anſueris, that Pharnyherſt and landis thair of ar pairt and pertinent of the lordſchip of Jedburghe-ſforreſt, haldin of my Lord Angus.—The Aduocat takis inſtrumentis, that Thomas Trumbill, apperand of Mynto, declaris, as he is informit, that the Place of Pharnyherſt is nocht within the boundis of the Regalitie: And als, the Aduocat allegis, that my Lord of Angus can nocht be hard to preve, be witneſes, the Place of Pharnyherſt to be pairt and pertinent of Jedburghe-ſforreſt.

THE JUSTICE findis that it may be verifeit be writt, that the Place of Pharnyherſt is pairt and pertinent of Jedburghe-ſforreſt.

Thairefter, it wes fund be Interloquuntour that it may be verifeit be witneſſis, that the Place of Pharnyherſt lyis within the boundis of the ſaid Regalitie.

The Lairdis of Aytoun, Broxmyth, Traquair, being producit as witneſis to preve as above; and the Aduocat anſuerand, that thay wer kyn and freindis to the Laird of Pharnyherſt, the Juſtice ſtand that thay could nocht be reſſauit for the reſpect fairſaid.

The Laird of Drummalzear wes ſworne, that he cam nocht heir to defend the Laird of Phairnyherſt, and wes producit as witneſs to preve Pharnyherſt to be within the Regalitie; and being ſworne, deponis that he knawis the Place of Pharnyherſt to be within the Regalitie of Jedburghe-ſforreſt.

Gylbert Pennyculk of that Ilk, being ſworne, previs na thing.

James Anſlie, being ſworne and producit, the Aduocat allegis that James Anſlie could nocht be reſſauit, becaus he is of the name of Anſlie, of the quhilk name diuers wes att the Slauchter aboue writtin; and ſwa the perſewaris, declarand that thay bure feid aganis all the name of Anſlie, the ſaid James could nocht be reſſauit: And the Juſtice referrand the mater to the declaration of the ſaid James, quha wes ſworne, and declarit he bure feid att na man, reſſauit the ſaid James witneſs, nochtwithſtanding that the informeris alledgeit feid: Deponit, that he knew Phairnyherſt to ly within the boundis of the Regalitie.

Allegis the Aduocat, that the Laird of Pharnyherſt can nocht be repledgeit, becaus he being Proveſt of the Kingis frie burcht of Jedburghe, and accuſit of ane capitall cryme committit within the ſamin, he can nawyis be repledgeit to ony Regalitie, in reſpect of the qualitie of the place and perſoun; nather can his hienes Aduocat be drawin to inſiſt in ſic ane perſuit before ony inferiour Judge, bot aucht only perſew him before his hienes Juſtice Generall.—It is anſwerit for my Lord of Angus, proponer of the excepcioun of Replegiatioun, that albeit the Laird of Phairnyherſt acceptit vpoun him to be Proveſt of Jedburghe, that can nocht preiudge my Lord of Angus of his privilege of Regalitie within the hail boundis of the lordſchip of Jedburghe-ſforreſt; nather yit preiudge the Laird of Pharnyherſt of ony benefite compitent to him, in reſpect of

his dwelling-place : And albeit ane capitall cryme be committit within the Regalitie, ather within burcht or land, that can nocht preiudge the lord of the Regalitie of his priviledge, quha is Judge compitent to all and quhatsumener perfounes duelland within the boundis of his Regalitie, quhairwir the cryme be committit ; And forder, the Laird of Pharnyherst is nocht persewit as Provest, vpoun the discharge of his office, or for ony failzie¹ committit be him, in vsing or exerceing thair of, bot as ane privat man, for the crymis contenit in the Dittay : And albeit my lord Aduocat is nocht obleist to compeir befoir ony vther Inferiour Judge, that is na caus to preinge the lord of the Regalitie of his privilege, seing the parteis offendit may persew, and any lord Aduocat may persew be his substitute ; and gif that argument sould be respectit, the hail heretable Regaliteis sould be vnprofitabill, and na replegiatioun sal be admittit in favouris of the lordis of the Regalitie and thair bailleis : And forder, his Maiesteis Aduocat is ordinarlie partie in all criminall persuitis.

The Laird of Pharnyherst, being inquiryt, gif he wald adhere to my lord of Angus' desyre and alledgeance, he answerit, that he wald gif his procuratouris leif to answer for him : And Mr Jolme Russell, as procuratour for the Laird of Pharnyherst, declarit he wald keip sylence, quhill² the discussing of my Lord Angus' alledgeance ; quhairvpoun he askit instrumentis.

DENUNCIATION against William Ker, &c. for the above crimes.

THE quhilk day, Sir Andro Ker of Phairnyhirst knight, oftymes callit as cawtioner and fouertie for WILLIAM KER, brother to Robert Ker of Ancrum, George Moserope, burges of Jedburgh, David Moserope his brother, thair, George Ker in Oxnem, Johne Ker in Redden, Andro Ker thair, Charles Robsoun in Wallis, George Pyle in Mylneheuche, David Pyle his brother, and Symmie Hall in Haviesyde, to haif enterit and presentit thame befoir our souerane lordis Justice or his deputis, the saidis day and place, in the hour of cause, to haif underlyne the law for the above crymes ; lawfull tyme of day biddin, and nocht enterand the personis abouewrittin, as he that become cawtioune for thair entrie, as said is : Thairfoir the Justice decernit and ordanit the said Andro Ker, as cawtioner foirsaid, to be vnlawit and amerciit for thair nocht entrie, in the panis contenit in the Actis of Parliament, vid. for nocht entrie of the said Williame Ker, in the pane of twa hundreth markis, and for nocht entrie of the remanent ix personis, for ilk ane of thame in the pane of ane hundreth markis : And als Adjudgeit the saidis Williame, &c. to be dennceit our souerane lordis rebellis, and put to his hienes horne ; and all thair movabill guidis to be escheit and inbrocht to his Maiesteis vse, as fugitiues fra his hienes lawis for the saidis crymes.

PERSEWARIS.

Margaret Trumbill, freind³ to John Middilmest,
Mark Trumbill, brother to Bewlie.⁴

PRELOQUUTOURIS for the pannell.

The Erl of Crawford, My Lord Vchiltrie,
My Lord Newbottill, The Lard of Lytildene.

Dec. 24.—My Lord of Angus declaris, that he insiftis only to haif James Ker of Lintellie and Williame Ker, his sone, replegeit ; but vnder protestatioune

¹ Failure, malversation.

² Until Lord Angus's allegation of being lord of this Regality, &c. was discussed.

³ Relative, blood relation.

⁴ These ' persewaris' and also the ' preloquutouris' here noted, are inserted in the Record, in addition to those formerly entered.

that he passis nocht fra the priviledge of his Regalitie, nochtwithstanding that he requyres not the land of Pharnyherst replegeit.

THE JUSTICE Admittis the replegiatioun to my Lord of Angus, for replegiatioun of James Ker of Lintellie and Williame Ker, his sone: And my Lord of Angus appointis the thryd day of the nixt Justice-air of the Regalitie of Jedburghe-fforest, or soner, vpoun fyftene dayis warning, for administratioun of Justice; and stand Ker (of Caveris) cautioner for administratioun of Justice; and James Commendater of Melroise¹ become fouertie for thair entrie; and the Guidman of Lintellie obleist him to releve my Lord of Melroise.

The Laird of Pharnyherst takis instrumentis that Mark Trumbill of Bewlie insistis in persuit of his lyffe.—The Laird of Mynto refusis to persew; quhairvpoune the Laird of Pharnyherst askit instrumentis.—The Laird of Pharnyherst askit instrumentis, that Mark Trumbill insistis in persuit of his lyffe.—The pannel, except the Laird of Pharnyherst, askit instrumentis that Mark Trumbill wold nocht insist aganis thame.

The pannel askit instrumentis that thay offerit thame selffis to ane Tryell, and to abyde ane Assyse.—The said Mark Trumbill lykwayis declaris, that he will nocht persew the Laird of Pharnyherst, att this tyme, in respect he can nocht gett ane Assyis to him.—The Laird of Pharnyherst askit instrumentis of the declaratioun of Mark Trumbill; and speciallic, in that poynt, that he being inquiryt, gif he had just caus to insist aganis the Laird of Pharnyherst? Declarit, that in respect his lyffe wes saift be him, and in his handis, he wald nocht persew: And nochtwithstanding of the said declaratioun, to testifie his obedience to his Maiesteis Justice, and that he cravis na subterfuge, in respect of his innocencie, and that he did na thing bot as ane publick Magistrate, thairfore he willinglie offeris him selff presentlie to ane Tryell: And becaus this persuit is only movitt att my lord Advocatis instance, he cravis his lordschapis declaratioun.

The Advocat desyrit this mater to be continewit quhill Setterday; becaus that he had informatioun of his Maiestie to insist in persuit; and vpoun informatioun of partie, quha hes past fra the persuit.

SIR ANDRO KER of Phairnyherst, and Sir Johne Ker of Hirfell, as cawtioneris for Mr James Ker, Michael Ker, Thomas Ker, brother to George the browster, and James Hillop, to haif enterit thame, &c. were amerciat in the panis following, viz. for nocht entrie of Mr James 200 markis, and for ilk ane of the rest 100 markis: And these parties were ordered to be denounced rebels, &c.

Dec. 26.—Continued to Justice-air of 'Roxburghe, tertio Itineris, vel super premonitione xv dierum, plegiis, Patricio Home de Aytoune, D. And. Ker de Phairnyherst et D. Joanne Ker de Hirfell.'

¹ Afterwards named 'Johne,' in the Record.

Slaughter in Single Combat, in France.

Jan. 13.—CAPITAN JOHNE RIG, Archeour of the Gaird of France.

Dilatit for the Slauchter of vmq^{le} Mr Thomas Strathauchin, alias Meirnis.

Comperit Mr George Strathauchin, alias Meirnis, and produceit our fouerane lordis lettres, deulie execute and indorsat, purchest be him self aganis Capitan Williame (Johne) Rig; and desyrit proces.

Comperit Mr Thomas Hope *excusatorio nomine* for Capitan Johne Rig, and produceit ane Warrant subscryuit be the Kingis Maiestie, ordaning the dyet aganis the said Capitane Johne to be desert; of the quhilk Precept, the tennour followis.

REX,

JUSTICE, Justice Clark and your deputtis, We greitt you weill. Foramekill as Capitan Johne Rig and vmq^{le} Mr Thomas Strathauchin, Archeouris of pe Gaird of France, and swa being ferwandis to our darrest broder Henrie King of France, the said Mr Thomas Strathauchin appeillit to the said Capitan Johne Rig to pe Singolar Combat; in pe quhilk Combat the said vmq^{le} Mr Thomas was hurt and woundit, and be evill handling and cure of cherngeanis, deceissit: Quhilk Combat, and all that followit pairvpoun he bene tryit be our said darrest broder Henry King of France and his Jugeis, as Jugeis compitent to pe said Tryell, the said vmq^{le} Mr Thomas and the said Capitan Johne Rig being baith subiectis to our said darrest proper: And nochtwithstanding, as We ar informit, the freindis and kyn of pe said vmq^{le} Mr Thomas Strauchin hes raist our vperis letteris, and hes summond pe said Capitan Johne Rig, to compeir befor you in our Tolbuith of Edinburgh, pe xiiij day of Januar instant, in pe hour of caufe, to vnderlye our lawis for pe Slauchter of the said vmq^{le} Mr Thomas, albeit it be of veritie, that We nor our Justices can nawyis be Jugeis compitent to pe said Capitan Johne Rig, he being ane Archeour of our said derrest properis Gaird, and swa his subiect; befor quhome and his Jugeis he hes bene alreddie tryit: Lyke as, also, the said Capitan Johne Rig being vpoun pe poynt of his voyage, to pass in France to his seruice, can nocht gudlie attend vpoun pe famin dyett: QUHAIRFOIR, We haifing tane sufficient tryell in pe said mater and of pe proceeding pairrof, hes concludit that the said Capitan Johne Rig salbe nawyis trublit in tyme cuming for pe said slauchter. Commanding you, that ye onnawyis proceed aganis him nor his cawtioner, at pe said xiiij day of Januar instant, nor in na tyme cuming, for pe Slauchter of pe said vmq^{le} Mr Thomas; dischargeing you pairrof, and of your offices in pat pairt: And for pe said Capitan Johnis mair securitie, cause registre þir presentis in our buikis of Adiornall, *ad perpetuam rei memoriam*, and for your Warrant. Subscryuit with our hand, at Halyrudehous, pe first day of Januar, 1602 zeiris.

(Sic subseribitur)

JAMES REX.

To the quhilk it is ansuerit be the said Mr George Strathauchin alias Meirnis, persewar, that the said Letter was ane priue Letter, and aucht nocht to be admittit.—With the quhilk Letter and ansuer maid thairto, the Justice being throuchlie avysit, admittit his Maiesteis Warrant, and desertit the said dyett: Quhairvpoun the said Mr Thomas Hope askit instrumentis; and the said Mr George protestit, that the admissioun thairrof preiuge nocht his persuit in tyme coming.

Treason — Forging and Uttering Base Coin, &c.

Jan. 13.—PATRIK DRUMMOND, in Lenach.

Dilatit of airt, pairt, red, counsale and conceilling of the tressonabill fforgeing, prenting, coinzeing and out-putting of false and adulterat money, sik as false fyve-pund-peices and fyve-schilling-peiceis; quhilkis, fyve yeir senfyne, or thairbye, was coinzeit be Hans Johnestoune, Fleming, and vmq^{le} George Drummond, saidler in Perth, in the kill of Lenach and vpoun the Craigis thairof, of his knowlege and conceilling; ffor the quhilk he ressauit ten false fyftie s. peiceis.

VERDICT. The Assyis, being sworne and admittit; and the pannell accusit be dittay, quhilk wes verefeit be his awin Deposition, and the Depositionis of vmq^{le} Walter Murray in Dunfermling, vmq^{le} George Drummond, saidler in Perth, and vmq^{le} Thomas Glas in Creif, and Thomas Reid, serwand to the said Hans, &c.; they, be the mouth of Andro Naper, merchand, burges of Edinburgh, stand, pronounceit and declarit the said Patrik to be fylit, culpabill and convict, &c.

SENTENCE. To be tane to the Castell-hill of Edinburgh, and thair wirreit¹ at ane staik quhill he be deid; and thairefter, his bodie to be brunt in asses; and all his landis, heritageis, coirnis, cattell, guidis and geir to be fforfalt, and be inbrocht to our souerane lordis vse.

House-breaking — Theft — Horse-stealing.

Jan. 13.—PATRIK MURRAY of Galwald.

Dilatit of the cryme following, viz. Foramekill as he, being in cumpany with vmq^{le} Mr Williame Balfoure, brother to the Laird of Burlie, vmq^{le} Johne Gyb, Hary Cuik, Johne Oliphant, and vtheris thair compliceis, in the moneth of februar lastbypast, cam, vnder fylence and cloud of nycht, to the duelling hous of Andro Fluikar, in the Brigend of Gairny, and thair brak vp the dur of the said hous, enterit thairin, and steilling furth thairof his haill insyecht pleneissling in ane feak, with ane meir; and had and convoyit the samin away with thame to the place of Strowie. ITEM, for airt and pairt of the thifteous steilling, concealing and away-taking of ane horse furth of ane stabill in the Cannogait-heid, pertening to Toscheoch of Monyvaird; committit twa yeir syne, or thairby.

VERDICT and SENTENCE. The pannel being 'fylit' by the Assise, the Justice Ordanit him to be tane to ane gibbet standand in the Castell-hill of Edinburgh, and thairvpoun to be hangit quhill he be deid; and ordanit all his movabill guidis to be escheit, &c.

¹ Strangled.

Slaughter.

Jan. 23.—THOMAS JAK, wrycht in Haltounne.

Dilatit, accusit and persewit, fforfamekill as he, accompaneit with Johne Herring in Lang-Forgoun, bodin in feir of weir, with sword and vtheris wappinnis *invafive*, laitlie, vpoun the xxix of Julij lastbypast, haifing confaut ane deidlie feid aganis the said vmq^{le} Alexander, fett vpoun the said vmq^{le} Alexander foirnent¹ his duelling hous, at the Kirk of Forgounne, and thair crewallie hurt and woundit him in the heid, and claif his harne-pan² with swordis, and thairby slew him; and he wes airt and pairt of the slauchter of thesaid vmq^{le} Alexander Moncur.

PERSEWARIS.

Andro Moncur, sone to the defunct,
Patrik Moncur of Chapeltonne,

Johne Flouris, sifter-sone to the defunct,
Mr Thomas Hammiltounne, (King's Advocate.)

The pannell, nochtwithstanding that he is innocent of the Slauchter of the said vmq^{le} Alexander Moncur, he becummis in the Kingis will for the samyn, and for beiring of pistulettis.

VERDICT. The Assyis, be the mouth of Robert Gyb in Lochtonne, chancillar, fstand the said Thomas Jak to be ffylit, culpabill and convict of airt and pairt of the Slauchter.

SENTENCE. To be tane to the mercat croce of Edinburgh, and thair, his heid to be strikin fra his body, and all his movabill guidis to be escheit, &c.³

Murder—Theft.

Jan. 29.—JAMES CRUIKSCHANK, feruitour sumtyme to Mr David Ogilvie.

Dilatit, accusit and indytit, fforfamekill as he, accompaneit with Andro zounge alias Dauidfone, hantand⁴ in Sanct Johnistoun, laitlie, vpoun the fourt day of Januar instant, fett vpoun vmq^{le} Robert Innes, merchand att the Kirk of Inch, one Carnbodd-mure, and thair, in the dawing of the day,⁵ maist crewallie (and) schamefullie Mordreift and slew the said vmq^{le} Robert Innes, be cutting of his thrott: And als, thifteouslie stall, conceillit and away-tuik fra him his pak,⁶ contening merchand-geir, with his purs and certane money thairin.

VERDICT. The Assyis, be the mouth of Robert Varnour, skynner in Edinburgh, chancillar, fstand the said James to be ffylit, culpabill and convict of the crewall Murthour of the said vmq^{le} Robert Innes; and of the steilling of his pak and purs, with certane money thairin.

SENTENCE. To be tane to the Castell-hill of Edinburgh, and thair to be hangit vpoun ane gibet quhill he wer deid; and thaireftir his heid and rycht

¹ Before, immediately opposite to.

² Skull, 'brain-pan.'

³ On the margin, 'Convict et decollat.'

⁴ Literally, haunting, dwelling, but without any fixed occupation.

⁵ At dawn,

⁶ Travelling pack, he being what is termed a 'packman,' or small-ware merchant.

hand to be strikin fra his body; to be affixit, the hand in Dundee, and the heid in Carnbodo-mure; and all his movabill guidis to be escheit, &c.

Stouthreif — Cattle-stealing — Horse-stealing, &c.

Feb. 12.—JAMES VALLEM and George Vallem, sonis to David Vallem of Woodwrae.

Dilatit, accusit and persewit, be Dittay following,

FORSAMEKILL as thay, accompaneit with Williame Ogilvie, Williame Cumming, Archibald Douglas, ... Rikard, ... Ramfay, and vtheris their complices, commoun thevis and brigandis, in the moneth of Junij, the yeir of God 1^m.Vc.lxxxvj yeiris, being bodin in feir of weir, with swordis, secreteittis, pistolettis and vtheris wappynnis *invafue*, vmbefet¹ the hie way and passage to Williame young and James Blak, cadgearis,² duelland vpoun the fourth fyde of the fierrie of Dundie, and to twa of thair fervandis, at the Coittoun of Melgum, lyand within the Sherefdom of Forfar, quhair thay wer dryvand fevin pakis of merchand-geir, on fevin horsis, towardis Brechin, to the flair thair of; quhilkis pakis pertenis to Patrick Wedderburne, burges of Dundie, and Johne Alexander, burges of Edinburgh, vmq^{le} John Wrycht, burges thair, and Thomas Allane, tailzeour, burges of the Cannogait; and thair set vpoun thame oppinlie, in day lycht, at xij houris in the day; and, be way of Stouth-reif, violentlie reft, stall and away-tuke fra the saidis cadgearis, the saidis fevin pakis and fevin horsis; and thifteoullie and masterfullie convoyit the samyn away with thame, togidder with the saidis cadgearis, to the mouth of Glenmoy, and disponit vpoun ane grit pairt of the said merchand-geir, at thair pleasour: AND als, the said James being accusit, forsamekill as he, accompaneit with Williame Cummyng and vtheris his complices, in the moneth of October lastbypast, come to the toun and landis of Auchterlony, pertening to Johne Carnegie, grynter,³ and thair thifteoullie stall, conceillit, reffett and away-tuke furth thair of, sax oxin and twa ky, pertening to the said Johne Carnegie and James Pittilach his fervand; quhilk thay draif to the North and fauld, at thair plesour. ITEM, the said James indytit and accusit for airt and pairt of the thifteous steilling of ane quhyte horse furth of Mr Williame Gairdyn stabill, Vicar of Abirlemnoch, pertening to Johne Mortimer younger of Flemingtonne, committit foure yeir fenfyne, or thairbye. ITEM, the said George Valleme being indytit and accusit for the thifteous steilling, conceilling and away-taking of ane horse fra Johne Kyd.

PERSEWAR.

PRELOQUUTOURIS for the pannel.

Mr Thomas Hammiltoun of Drumcarne, aduocat. Mr Thomas Craig, Mr Johne Russell.

It is allegeit that the Dittay sould nocht be putt to ane Affise, becaus thay sould be summond vpoun xv dayes wairning, and thay sould haif ane copy. The Aduocat answaris, that in respect of the Dittay, quhilk is vpoun thift, the alledgeance aucht to be repellit.

THE JUSTICE findis proces.

¹ Forcibly beset, &c. by stopping or blocking up the way. ² In this sense '*cadgers*' were carriers, who travelled through the country with their pack-horses, and were employed by small-ware merchants to transport their goods to fairs and markets. At this period, all distant carriages were effected by means of pack-horses; and (as is the present custom of *carriers*) they usually travelled in companies, for mutual protection and security. The modern term *cadger*, is commonly applied to persons who collect eggs, fowls, butter, &c. from small farmers, &c. and bring them to market for sale. Their present equipage consists of a horse or ass, with *creels*, or panniers, placed across the animal, when foraging and bargaining with small farmers and cottagers; but when they go to market, their accumulated store is commonly brought in carts. ³ Properly, one who keeps or takes charge of a granary or farm. It is sometimes spelt '*grainter*, or '*granitour*.'

It is allegeit, that this mater, concerning the taking away of the pakis, fould nocht be putt to the knowledge of Affyis, becaus it is ane mater of depredatioun; and be Act of Parliament maid in the tyme of King James the ffyft, cap. xxxvij, all depredatiounis and maisterfull reiffis fould be fyrst Ciuilie discusst before the Lordis. The Aduocat anfuers, that the said alledgeance aucht to be repellit, in respect of the Dittay contening Stouth-reif and thift. The preloquutouris takis instrumentis, that thay defyrit to putt thair alledgeance in writt thame felff; and to dyte itt; and that the Justice anfuers that he, be the auise of the Chancillar, Collectour, Thesaurer, Lord Hereis and vtheris¹

THE JUSTICE Repellis the alledgeance, in respect of the Dittay.

The Pannell takis instrumentis, that na partie comperis to persew, bot my Lord Aduocat; and na persoune can be putt to ane Affyis, without ane sworne Dittay. The Aduocat anfuers, that he fould nocht sweir.

VERDICT. The Affyis, be the mouth of Alexander Kerfane in Balbethie, chancillar, ffand the saidis George and James Vallemes to be ffylit, culpabill and convict of the crymes *respective* aboue writtin, laid to thair chairge.

SENTENCE. To be tane to ane gibbet at the mercat croce of Edinburgh, and thairvpoune to be hangit quhill thay be deid; and all thair movabill guidis to be efcheit, &c.²

[*Mr William Boirthuik, Justice-Depute.*]

Slaughter — Bearing of Pistolets, &c.

Mar. 3.—PATRIK LORD GLAMMIS; Johnne Lyon, sone to Johnne Lyon in Rouchalhill; Johnne Lyon, sone to . . . Lyon, burges of Dundie; Johnne Scryngeoure, Johnne Edmestoune, and Fargus Murray, seruaudis to the said Patrik Lord Glammis; William Lyon, seruand to the said Johnne Lyon, sone to Johnne Lyon in Rouchalhill.

Dilatit for air and pairt of the Slaughter of vniq^{le} Patrik Johnnestoune of Mof-toun; and for beiring and weiring of pistolettis, contrair the tennour of the Actis of Parliament; committit vpoun the saxt day of September lastbypast.

Comperit Mr Williame Oliphant, and produceit ane Warrant, direct be his Maiestie; quhairof the tennour followis.

REX,

JUSTICE, Justice clark and 5oure deutes, We greit 5ow weill. Forfamekill as the thryd

¹ Assessors to the Justice. The sentence is left unfinished; but it is probable that it referred to the right of the Justice to dictate the 'allegiances' and replies, in cases where the matter was disputed between the King's Advocate and the Counsel for the pannel. ² 'The xiv of Februar, twa brether hangit, viz. David Volume and his brother, for oppreßion and spuilzie.'—*Birrel's Diary*.

day of March nixtocum is appointit and assignit to Patrik Lord Glamis, and certane his friendis and feruandis for pair comperance before 3ow, to vnderly oure lawis for þe slauchter of vmq^{le} Patrik Johnnestoun; nochtwithstanding, for certane caussis moving ws, it is oure will, and We command 3ow to continew the said dyet, vnto þe tent day of Maireh nixtocum; and that 3e dispens with the personall comperance of the saidis perfounes, and tak new caution of þame, that thay fall compeir befor 3ow, the said tent day of March nixtocum. As 3e will anfuer to ws pairvpoun. Quhairnent thir presentis salbe to 3ow ane Warrant. Subferyuit with our hand, At Halyrudhous, the faxtene day of Februar, 1602.

(Sic subferibitur) JAMES R. MONTROIS, Can^{rius}, S. G. HOME,¹ The^r.

Quhilk Precept the Justice admittit.

The quhilk day Sir Johne Murray of Tillybairdyn, knyght, comperand be Mr Williame Oliphant, his Aduocat, be his letteris obligatouris, subferyuit with his hand, at Glamis, the last day of Februar, 1602 yeiris, become plege and fouertie for Patrik Lord Glamis, &c. that they fall compeir befor our fouerane lordis Justice or his deputtis, the tent day of Marche nixttocum, &c.

The quhilk day, Johnne Gordoun of Boigis, Sheref-depute of Abirdene, and Johnne Arbuthnett of Carnedaw, oft tymes callit as cautioneris and fouerteis, coniunctlie and feuerallie, for reporting of our fouerane lordis letteris, dewlie execute and indorfat, and perfewing thair of, purchest be Margaret Arbuthnett, the relict, Johnne, Robert, Gylbert and Alexander Johnnestounis lauchfull bairnis, with the remanent kyn and friendis of vmq^{le} Patrik Johnnestoun of Mostoun, &c.; lauchfull tyme of day biddin, and nocht produceand the saidis letteris dewlie execute and indorfat, and nane compeirand to perfew thame; thairfoir the Justice-deput, be the mouth of James Lowrie, dempstar, decernit the said cautioneris, conjunctlie and feuerallie, to be vnlawit and amerciati, for nocht reporting thair of, and for nocht perfuit thair of aganis the said Patrik Lord Glamis, in the pane of . . . thowfsand poundis; and vpoun ilk ane of the remanent fax perfounes, in the pane of ane hundreth merkis.²

[*Mr Williame Haert, Justice-Depute.*]

Stealing the Poor's Box of Cockpen — Adultery, &c.

May 21.—WILLIAME NORWALL, scolemaister in Cokpen.³

Dilatit, accusit and persewit, for the thiftious steilling, away-taking and con-celing of the puir folkis box, furth of the Kirk and Sessioun-hous of Cokpen, vpoun the xj day of Apryle lastbypast; quhairin thair wes aucht poundis money, or thairby, gewin in almous to the pure; quhilk he brak vp at the watter-lyde, befyde Mountounhall.⁴ ITEM, ffor the cryme of Adulterie, committit fourtene or fyftene yeir fyne, or thairby, with Christiane Dowglas; he haifing ane mareit wyffe, callit Margret Morifounne, than on lyffe.

¹ Sir George Home, afterwards Earl of Dunbar, Lord High Treasurer of Scotland.
faurario deliberat.²

³ See June 9, 1602.

⁴ Monktonhall?

² 'The-

The said Williame become in our fouerane lordis will; and the Justice, refaneand him in will, ordanit the said Williame to be Baneift this realme, during all the dayes of his lyffe; and to depairt furth thair of within aucht dayes eftir the dait heirof, and nocht to returne thairin vnder the payne of deid. And the said Williame obleift himself to the effect foirsaid; vnder the payne to be hangit, but Assyfe.

Barbarous Murder of a Dumb Young Man.

JUN. 2.—WILLIAME GEIKIE Younger in Kethynnis.

Dilatit for airt and pairt of the crewall Murthour and Slauchter of vmq^{le} Patrik Cathrow, in Kethinnis ('ane dumb borne 3oung man'); committit vpoune the xx day of Februar lastbypast.

PERSEWARIS.

David Cathrow, myller at the mylne of Kethinnis, fader-bother to the defunct; Mr Tho^s Hammiltoune.

PRELOQUUTOIR for the pannel, Mr Williame Oliphant (advocate.)

DITTAY against the Pannell.²

FORSAMEKILL as he, with his complices, being bodin with ane grit sting or rung,³ laitlie, vpoune pe xx day of Februar, the 3eir of God I^m.Vj^c. ane 3eiris, haifing consaut ane deidlie hatrent, rancour and malice aganis pe said vmq^{le} Patrik, quha was ane simpill, pure, dum 3oung man, sett vpoune him within pe toune of Cowper-in-Angus, quhair he wes in fober and quyet maner for pe tyme, doand his lesall effairis and bussines, traifling na ewill, harme, iniurie or persuit of ony personis, bot to haif leuit vnder Godis peax, and our fouerane lordis; and pair, crewallie invadit him for his slauchter, hurt and woundit him with pe said rung on the face and neife, and brak pe girfell of his neife,⁴ to the effusioune of his blude in grit quantitie; and gaif him diuerse vperis bauch, blae and bludie straikis, vponn his heid, bak, wambe and sehoilderis; Lyke as, the said Williame Geikie, nocht being satisfieit with pe crewaltie done to pe said vmq^{le} Patrik Cathrow, in day lycht; he, vpoune pe said xx day of Februar, pe 3eir of God foirsaid, vnder seylence and cloude of nycht, vmbeset pe hieway and passage to pe said vmq^{le} Patrik, in the Rasche-myre, lyand betuix Cowper and Kethynnis, as he was in fober and quyet maner passand on the hie way towardis the toune of Kethynnis, to his said faper-broperis duelling hous pair, dredand na harme or iniurie to haif bene done to him be pe said Williame, in respect of the bludie woundis gevin to him of befoir; and pair, of new, sett vpoune pe said vmq^{le} Patrik, and with ane rung, best,⁵ straik and dang him vpoune pe heid, face, bak, fillettis and wambe, and brak his haill intrallis, that it was piteous to haif hard pe lamentabill routis⁶ and eryis of the pure dum man; and left him nocht, quhill⁷ be pe saidis crewall straikis he slew and murdreift him, and left him deid vpoune pe ground: Committand pairbye crewall, sechamefull and abhominabill Slauchter and Murthour, being ane dumb borne 3oung man, vnhabill to haif defendit him selff; vpoune sett purpois, provisounne and foirthocht sellonye.

The Aduocat protestis for Wilfull Errour, in cais thay acquit, in respect of the Dittay and taikinnis.⁸

¹ To be hanged without farther Trial.

² This Dittay, it need hardly be observed, has been preserved here chiefly on account of the extraordinary nature of the case, and the remarkable phrases with which it abounds.

³ A large bludgeon or cudgel.

⁴ The *gristle*, cartilage, or flexible

part of his nose; perhaps implying also the 'bridge.'

⁵ Beat, Old Fr. *basté*, *basted*.

It may be '*best*,' *bast*, a synonymous word.

⁶ Bellowsings, usually applied to the lowing of cattle, especially when impatient to be milked, or to be driven home in the evening. 'The kye stand routin' in the loan.'

⁷ Until.

⁸ Evidence, *tokens*, proof.

VERDICT. Eftir accufatioune of the faid Williame, be Dittay, of the crymes aboue writtin, quhilk he alluterlie denyit, the Affyis, be the mouth of Sampfoune Ker, in Auchterhous, Chancellar, ffand the faid Williame Geikie to be Clene, innocent and acquit of airt and pairt of the crewall murthour and flauchter foirfaid, &c. Quhairvpoune the faid Williame Geikie askit actis and instruments.¹

Exercising the Office of Notary without lawful Warrant.

JUN. 9.—WILLIAME NORVELL, fcole-maifter in Cokpen.²

Accufit and perfewit be Dittay, at the instance of Mr Robert Lyntoune, fubstitute to our fouerane lordis aduocat, for the crymes following.

DITTAY againſt the Pannel.

FORSAMEKILL as, it is flatute be the Actis of Parliament and lawis of this realme, that na maner of perfoune gif him ſelf furth for ane Notour, or vſe or exerce the office of Notarie, vnles thay be firſt preſentit be his Maieſtie, be his hienes Letter of Preſentatioune directit to the Lordis of the Seſſiounne, and thaireftir admittit be the ſaidis Lordis to the ſaid office, efter tryell; and thair Prothogoll-buik ſychtit and markit be the Clark of Register and his deputtis; and gif ony man preſume to do in the contrair, to be pwniſt to the death: As the ſaidis Actis of Parliament at mair lenth beiris. And trew it is, that the faid Williame Norvell hes vſit and exerceit the ſaid office of Notarie, as ane ordinar Notar, in ſyndrie deidis, ſik as in Contractis, Obligatiounis, Seafingis, Requiſitionis or Redemptionis; and generallie in all thingis, quhen he was requyrit, continewallie ſen the moneth of November, the yeir of God I^m.Vc.lxxxv yeiris, to the day of his apprehenſiounne; albeit it be of veritie, that he was never admittit to the ſaid office of Notarie; lyke as, he never had his Maieſteis Preſentatioune direct to the ſaidis Lordis of Seſſiounne, for his admiſſiounne to the ſaid office; nather had he ane Prothogoll-buik, markit be the Clark of Register or his deputtis, conforme to the ordinance preſeryuit be the ſaidis Actis of Parliament: Quhairin he hes fallie circumvenit and diſſauit our fouerane lordis leigis, as ane falſe diſſauear; geveing him ſelf furth to be ane Notour, he being nane: Quhairbye he hes incurrit the panis contenit in the ſaidis Actis of Parliament.

VERDICT. The Affyis, be the mouth of Robert Smyth, merchand in Edinburgh, Chancellar, ffand the faid Williame to be ſfylit, culpabill and convict of the ſaidis crymes.

SENTENCE. To be tane to ane gibbet, ſtandand vpoune the Caſtel-hill of Edinburgh, and thairvpoune to be hangit quhill he be deid; and all his movabill guidis to be eſcheit, &c.

Slaughter.

JUN. 15.—JAMES CWININGHAME of Glengarnok.

Dilatit of art and part of the ſlauchter of vniq^{le} Williame Cwninghame, in Walzaird.

¹ It is likely that the Lord Advocate abandoned his writ of Error against the Assise; at least no mention is made of the matter, in the Record. ² See May 21, 1602. Although the former Assise had acquitted Norvell, yet the public prosecutor had set his seal upon him; and, in his next charge, crushed this ill-fated thief, adulterer, and 'fals notour.'

PERSEWARIS, Katherine Crawford, the relict ; Gabriell Cwninghame, as brother.

PRELOQUUTOURIS for the persewaris.

The Laird of Cwninghameheid, the Laird of Craigance, Mr Thomas Hammiltoune.

PRELOQUUTOURIS for the pannell.

The Laird of Caprintoune, the Laird of Houstoune, the Laird of Blair, Williame Porterfeld of at Ilk, Mr Johne Scharp, Mr Williame Oliphant.

The Justice continewis this dyet to the morne, the xvj day of this instant. (Plegio, Roberto Hammiltoune de Irehemauchan.)

Jun. 16.—The persewar askis instrumentis, that he is reddie to persew, and will insist conforme to the cautione fundin contrar the Lard of Glengarnok ; and protestis for releif of his cautionar.—The Aduocat declaris, that he will nocht insist in persuit, becaus he hes na informatione of the partie nor the Thesaurer.—The pannell takis instrumentis, that Gabriell Cwninghame and the preloquutouris insistis in his persuit.

THE JUSTICE, being auisit with my Lord Chancellor and the rest of the Assessoris, declaris, that vpoun occasioun moving thame, will nocht putt this mater to the knowledge of ane Assyis this day ; bot continewis the samin to the thryd day of the nixt Justice-air of the sherefdom of Perth, or soner, vpoun (xv dayis warning.)

The Laird of Glengarnok, present, takis instrumentis, that the partie persewar, rasar of the letteris, hes comperit this day judicillie, and offerit him reddie to persew ; lyke as, the said Laird of Glengarnok, being enterit on pannell, offeris him to (abide) ane tryell, for the cryme lybellit, according to the law.

Johne Blair of that Ilk becomes pledge and fouirtie for James Cwninghame of Glengarnok, that he fall compeir, &c.

Slaughter — Stouthreif.

Jun. 24.—JOHNE MURE of Auchindrane.¹

Dilatit of airt and pairt of the slauchter of vmq^{le} Sir Thomas Kennedie of Culzean, kny^t : And of stouthreif² of his purse, worth ellevin scoir rois-nobillis ; sax dosoun of goldin buttounis ; ane ryng of gold, contenand nyne dyamountis set thairin ; his sword, belt and quhingar ;³ committit the xij day of May lastbypast.

PERSEWARIS, Dame Elizabet McGill, the relict of vmq^{le} Sir Thomas Kennedie of Cullane, kny^t, James Kennedie as sone, Mr Thomas Hammiltoune of Drumcairne, Aduocat to our fouerane lord.

PRELOQUUTOURIS for the pannell, the Laird of Langschaw,⁴ the Laird of Rowallane,⁵ the Laird of Auchinlek,⁶ the Laird of Blair,⁷ Mr Williame Oliphant, Mr Johne Russell.

The Laird of Langschaw takis instrumentis of the entrie of Johne Mure of Auchindrane ; and protestis, that he be relevit, as cawtioune.—The persewaris

¹ See Jul. and Nov. 1608, Feb. 1609, and Jul. 1611. ² Theft accompanied by violence. ³ A kind of short sword or hanger. ⁴ Sir Niel Montgomery. ⁵ Mure. ⁶ James Boswell.
⁷ John Blair of that Ilk.

takis instrumentis of the productionne of the letteris ; and protestis for releve of thair cawtionne.

Compeirit Johne Maister of Orknay, and produceit the Warrant vnderwrittin ; quhair of the tennour followis.

REN,

JUSTICE, Justice Clark and your deputtis, We greit 3ow hairtly weill. Forfamekill as We, vnderstanding, that the xxiiij day of Junij instant is appoyntit be vertew of our vperis Letteris, direct at pe instance of Dame Elizabeth McGill, relict of vmq^{le} Sir Thomas Kennedie of Culzeane, kny^t, and James Kennedie, thair eldest lawfull sone, with concurrence of our Aduocat for our intres ; for tryell of Johne Mure of Auchindrane, and certane vperis personis his complices, for pe crewall murthour and slauchter of pe said vmq^{le} Sir Thomas Kennedy ; committit be pame in pe moneth of Maij lastbypast. And We, willing to be condinglie tryit, for pe part of pe said Johne Mure of Auchindrane ; and for better tryell pairof, necessar it is, that the boy callit,¹ quha was directit fra Mayboill to pe said Johne Mure of Auchindrane, as also the boy callit,² quha come to Thomas Kennedie in Bargany, a lytill befor pe committing of pe said murthour, war apprehendit and examinat and tryit, quhill we vnderstand is nocht 3it done ; and that the saidis twa boyis ar fugitiues ; quhairbye pe veritie is suppressit. Thairfoir it is oure will, and We command 3ow, incontinent efter pe fycht heirof, 3e continew 3our Court, and all proceeding aganis the said Johne Mure of Auchindrane in pe said mater, quhill the thrid day of pe air ;³ or that he be new summond, be pe pairtie, to pat effect. As alwa, that 3e proceid and minister justice aganis all the remanent personis contenit in our saidis Letteris comperand, and that war summond to vnderlye our law for the cryme aboue specifit. And this 3e fail nocht to do, without ony delay. As 3e will ansuer to ws vpoune 3our obedience. Anent the quhill, pir presentis falbe 3our Warrant. Subferyuit with our hand, at Falkland, the twentie-four day of Junij, 1602.

(Sic subferibitur) JAMES REN.

The said Johne Mure of Auchindrane disassentis to all continewatioun of this mater ; and offerit him reddie to vnderly the law for the crymes aboue writtin.

Sir Neill Montgomerie of Langschaw become pledge and fouirtie for Johne Mure, that he fall comper the thrid day of the nixt Justice-air of the Sherefdom of Air, or soner, vpoun xv days wairning.

Thett — Shooting of Pistolets — Barbarously Burning a Woman on a red-hot ' Girdill,' &c.

Jun. 29.—ALEXANDER ROWANE, sone to Nicoll Rowane of Sandiedub.

Dilatit of certane crymes of thift, schuting of pistolettis, and for burning of Katherine Huggounie, in the Burnefyde of Saling, vpoune ane girdill.¹

Comperit James Wynrahame, and produceit the Warrant vnderwrittin ; quhair of the tennour followis.

JUSTICE, Justice Clark and 3oure deputis, and Aduocat, We greit 3ow weill. Forfamekill as pe xxix day of pis instant wes appointit and assignit to Alexander Rowane, for his personall comperance befor 3ow, to haif vnderlyne our lawis for certane odious crymes, att lenth specifit in pe criminal

¹ William Dalrymple. ² There was only one boy. Dalrymple, however, had been prevailed on to change his name several times. This unfortunate youth was afterwards murdered on the Sands of Girvan, by the elder and younger Mures and James Baunatyne, under circumstances of peculiar atrocity. See Jul. 1611, &c. That Case is perhaps one of the most remarkable, in all its parts, of any one on record. ³ The Justice-air of the Sheriffdom of Ayr.

⁴ A large circular piece of hammered iron, still in common use in Scotland, in place of an oven, for toasting oat-cakes, &c.

letteris direct pairanent : Thairfore, and for findrie vper our wechtie occasiounes moving ws, especiallie, becaus oure Thesaurer, quba aucht to persew in pat mater, will nocht be present, att pat day : It is our will pairfore, and We command 5ow to continew the said dyett, vnto pe fyrst day of Julij nixt ; and in pe meane tyme, that 5e keip pe said Alexander Rowane in fuir waird : As 5e will answert to ws pairvpounne. Quhairanent thir presentis salbe 5our warrand. Subferyuit with our hand, att Perth, the xxvij day of Junij, 1602. (Sic subferibitur) JAMES R.

Jul. 1.—THE JUSTICE continewis the mater to the thrid day of July.

PERSEWARIS.

James Stewart, portioner of Sandiedub, Katherine Huggounne, at the Burnesfyde of Sawling, Cristian Hammiltounne in Lynmylne, Mr Thomas Hammiltounne for his hienes intres, Mr Johne Gib.

PRELOQUUTOURIS for the pannell, Mr Vmphra Blyndfscheillis, Mr Alexander Peblis.

DITTAY *against the Pannell.*

FORSAMEKILL as, the said Alexander, with his complices, in the moneth of Januar lastbypast, come to the landis of Overtounne of Pitvar, and thair thifteouslie stall, concealit, reffett and away-tuke furth thair of, ane gray horse pertening to Robert Tempilman thair. ITEM, for airt and pairt of the thifteous steilling, concealing and away-taking of ane blak kow, fra James Inglis, in the Pow of Adie ; committit in the moneth of August or thairbye, the yeir of God I^m.V^c.lxxxvij yeiris. ITEM, for contravening of our souerane lordis Actis of Parliament, in schuiting of ane pistulet, chargeit with twa bullettis, at the said Cristian Hammiltounne, and schuting of hir throw the courschet¹ thairwith ; committit in the moneth of August lastwas. ITEM, forsamekill as, he and his complices, in the moneth of December or thairbye, the yeir of God I^m.V^c.lxxxvij yeiris, come to Katherine Huggounne duelling-house, at the Burnesfyde of Sawling, and thair put violent handis in hir persounne, and sett hir bair erse vpounne ane reid bett² girdill, standand vpounne ane ingill ;³ held her perforce thairon, quhill⁴ ane grit pairt of the flesche of hir hipis was brunt. ITEM, for airt and pairt of the thifteous steilling of certane blak aittis fra the said James Stewart ; committit in the moneth of Februar lastwas. ITEM, for commounne thift and commounne reffett of thift.

Jul. 3 —The pannell takis instrumentis, that thair is na persounes compeiris to persew, except the persounes aboue writtin ; and farther, that nather Johne Broune in Fairnyherst, James Gibsounne, Agnes Rowane, Johne and Thomas Hornes, compeiris nocht to persew, nather to informe my Lord Aduocat.—Alledgeit for the pannell, that the burning of Katherine Huggounne is nocht relevant, and aucht nocht to be put to ane Assyis, becaus scho was nocht brunt to the deid.—The Aduocat answertit, that this being ane extraordinar and odious cryme, the attempting of it, and proceeding to the verie executioun, be setting of hir vpounne ane burning girdill, as *conatus cum effectu*, mereittis the deid,⁵ and aucht to pass to ane Assyis.

THE JUSTICE ordanis this matter to be (put) to the knowledge of ane Assyis.

The Aduocat takis instrumentis of the swering of the Assyis ; and also of the sweiring of that poynt of the Dittay concerning Cristian Hammiltounne, of schuting of hir with ane pistulet throw the hair of the heid : And further, of the

¹ Often spelt *courche*, or *curchey*, a sort of cap or *mutch*, shapd to the head like a close hood, but the back part so formed as to descend on the shoulders, and a little over the ears. Old Fr. *couvrechef*. ² Red-hot. ³ Fire. ⁴ Until. ⁵ The punishment of death.

fweiring of Katherine Huggonne, concerning the burning of hir vpoune the girdill ; and of the fweiring of James Stewart, of the pairt of the Dittay concerning him, aganis Alexander Rowane.—The Aduocat protestis for Wilfull Errour aganis the Assyis, in cais thay clenge,¹ in respect of the notorietie of the crymes laid to his charge, and of the fweiring of the Dittay be the persewaris.

VERDICT. The Assyis, be the mouth of David Bruce of Brathieburne, Chancellor, stand, pronounceit and declarit the said Alexander Rowane to be flylit, culpabill and convict of the hail crymes and poyntis of Dittay aboue writtin.

SENTENCE. For the quhilk caus, the Justice, be the mouth of Walter Pirie, dempstar, decernit and ordanit the said Alexander Rowane to be tane to ane gibbet, standand vpoune the Castel-hill of Edinburgh, and thairvpoune to be hangit quhill he be deid ; and all his movabill guidis to be escheit, &c.

Barbarous Murder, &c.

Jul. 3.—PATRIK STEWART, in Innervak.

Dilatit, accusit and persewit be Mr Thomas Hammiltoun of Drumcarne, aduocat to our souerane lord, for his hienes interes, of the crymes following, to wit.

DITTAY *against the Pannell.*

FORSAMEKILL as he, accompaneit with Stewart, his brother, and Allester Reoch, his serwand, laithie, in the moneth of November, the yeir of God I^m.Vj^e. yeiris, haifing consault ane deidlie malice aganis vmq^{le} Angus Dow M^eEwir, his serwand, for alledgeit abusing of Stewart, his dochter, in fornicatioune, tuke and apprehendit the said vmq^{le} Angus, band him hand and fit as ane malefactor, brak his rycht leg with ane ax, and thaireftir, with ane scharpe knyffe or durk, cuttit away his secreit memberis fra him, and put in het assis and emmeris² in the bag of his secreit memberis, quhilk reftit vcuttit ; and crewallie demanit, hurt and woundit him thairbye ; and thairefter knist³ him on horfbak, and convoyit him to the toune of Blair-in-Atholl ; quhair the said vmq^{le} Angus tuke bed, and continewand bedfast, in grit dolour and diseas thairof, be the space of fyve dayes or thairbye ; at last, he, in the said moneth of November, deceifit, be the said crewall handling ; and swa was crewallie and vnmercifullie slane be thame : The said Patrik being airt and pairt of the said crewall slauchter ; the lyke of the quhilk crewaltie and tyrannie was never hard to be committit within this cuntrey, nather in hieland nor lawland.

PERSEWAR, Mr Thomas Hammiltoun of Drumcarne, aduocat.

PRELOQUUTOURIS for Patrik Stewart, Mr Johne Ruffell, Mr Alexander King.

Willame Stewart of Tullich takis instrumentis of the entrie of the said Patrik ; and protestis, that he, as his cautioner, be relevit ; quhilk wes grantit.

The pannell denyis the cryme ; quhairvpoune his preloquitouris takis instrumentis : As also the pannell takis instrumentis, that na partie compeiris to persew, except our souerane lordis Aduocat ; or that na persoun swoir the Dittay.

¹ *Cleanse*, acquit.

² Hot ashes and live-embers.

³ Cast, tossed.

ASSISA.

Johne Stewart Neilfounne in Fofs, Alexander Robertfounne of Faf- Duncan Robertfounne of Glen-
 Williame Stewart in Duntulleich, calze, gennet,
 Johne Tarlafounne, apperand of Johne Farguefounne, callit Bar- Mr Robert Rois of Craigie,
 Moingzeis, rounne Farguefounne, Duncan Robertfounne of Piteaftell,
 Tarloch Robertfounne in Calie- Johne Farguefounne in Cluny, James Robertfounne of Killifehawie,
 bruer, Daid Barroune in Faudowie,¹ Andro Boyd, portioner in Litill
 Robert Robertfounne of Strowan, Alexander Stewart in Bifehoprie, Dunkeld.

The Advocat proteftis for Wilfull Errour, in caife thay acquit, in refpect of his awin Confeffiounne; quhair he confest, that he wald haif flayne his brother, for the latting of the faid vmq^{le} Angus gang.

VERDICT. Eftir accufationne of the faid Patrik be Dittay, quhilk was veri-
 feit be his Depositionis, the Affyis, be the mouth of the faid Chancelar, ffand,
 pronunceit and declarit the faid Patrik Stewart to be fylit, culpabill and convict
 of airt and pairt of the flaughter of vmq^{le} Angus Dow M'Evir.

SENTENCE. To be tane to ane place befyde the mercat-croce of Edinburgh,
 and thair his heid to be ftrykkin fra his bodie; and all his movabill guidis to
 be efcheit, &c.

THE famin day, George Leslie Capitan of Blair, Neill Stewart in Fofs, Robert Stewart in Faucaftell, Alexander McIntofch in Tirenne, George McIntofche, his brother, Alexander Stewart in Bohefpik, John Butter in Eifter Dunfallandie, Andro Burt, eldar in Cult, Johne Stewart McRobert in Archgowll, George Nafmyth in Lachache, and James Nafmyth off Luwar, vnlawit, ilk ane of thame in the pane of ane hundreth markis; for nocht compeiring and paffing vpounne the Affyife, &c.

Rapt and Raving — Besieging House of Auchmedden, &c.

Jul. 6.—JAMES CHENE of Peman.²

Dilatit of the Rapt and Reveifching of Mariorie Cuke, dochter to Williame Cuke in Vriuach: And felyke, for the aflageing of Gilbert Baird of Auchmedden (his) houfe: And for fchuting of piftolettis at Lilius Baird, and caufing of hir pairt with barne; and vtheris crymes.

PERSEWARIS, Mr Thomas Hammiltounne, Williame Cuik of Vrinoch, for Mariory.

PRELOQUUTOURIS for the pannell.

Mr Thomas Craig,
 The Laird of Donypace,

My Lord Home,
 Mr Johne Ruffell,

My Lord Sanquhar,
 Mr Alexander King.

DITTAY *againft the Pannel.*

FORSAMEKILL, as it is expreflie provydit, ftatute and ordanit be our fouerane lordis Actis of Parliament, maid in the tyme of his hienes prediceffouris, that na maner of man commit Rapt or Reveifch-

¹ This person's name affords an instance of the difficulty and uncertainty of Genealogical enquiries, and the immense research requisite for tracing Family-pedigrees, especially in the North of Scotland. He is here described as '*David Barroune in Faudowie*;' when chosen Chancellor of the Assise, he is designed '*David Farguisoun, Barroun of Faudowie*;' and he subscribes the verdict of the Assise, '*DAVID McDUF OF FAUDOUT*!' Another person in the same Assise, '*Johne Farguesounne, callit Barroune Farguesounne*,' still farther illustrates this remark, regarding the labour and indefatigable industry which must be displayed by the correct Genealogist and Historian. ² See Jul. 9, 20, and 30. The pannel was brother of Patrik Chene of Essilmonth, a person of considerable note and influence.

ing of wemen, vnder the panis contenit in the saidis Actis: And trew it is, that James Chene of Pennan, accompaneit with Alexander Chene, sone to Williame Chene in Oreheartoune, ... Geddes and Thomas Danidssone, seruitour to Patrik Chene of Effilmonth, accompaneit with diuerse vtheris thair complices, with conuocatioune of his hienes liegis, to the nowmer of twelf personis or thairbye, all bodin in feir of weir, with secreteittis, plait-flevis, gantilettis, fleil-bonnettis, swordis, dagis and pif-tolettis, expresse prohibite to be borne, worne, vsit or schot with, be his hienes Actis of Parliament and Secreit Counsale, vnder diuerse panis contenit in the samyn, laitlie, in the moneth of July, the yeir of God Im.V^c.lxxxvij yeiris, come, be way of Hamefuckin, vnder scyence and cloude of nycht, to the said Williame Cuke duelling-hous in Vrinach, lyand within the Sherefdom of Abirdene, qubair the said Mariorie Cuke was, in sober and quyet maner for the tyme, doand hir lefull effairis and buffines, traifing na ewill, harme, iniurie or persuit of ony personis, bot to haif leuit vnder Godis peax and our souerane lordis; and thair pat violent handis in hir bodie, tuke hir captiue and presoner, and perforce reveischit,¹ and convoyit hir away with thame to the said James Chene duelling-hous in Pennan; qubair the said James deforeit and abusit hir bodie, and held and detenit hir in captiuitie within the said James house, be the space of xij dayis or thairbye; vsurping thairbye our souerane lordis autoritie vpoun thame, in taking of the said Mariorie, his hienes frie liege but² commissioun or autoritie: And fwa, be being airt and part of the saidis crymes, hes contravenit the tennour of the saidis Actis of Parliament, in rapt and reveisching of the said Mariorie, being than ane virgyn; and hes incurrit the panis contenit in the saidis Actis, quhilkis aucht and suld be execute aganis him with all regour, in exampl of vtheris to commit the lyke in tyme cuming.

The pannell being³ desyrit quha wald insift in this persuit, The Aduocat declaris that he insiftis, togidder with Williame Cuik, fader to Mariory Cuik: And the said Mariorie, being chargeit to insift, sche is excusit, be Testimoniall of the Minister, that sche is lyand in chyl-d-bed-lair.

ITEM, stand that my Lord Aduocat has interes to persew, albeit that the principall letteris ar nocht rasit at his instance, for the Reveisching of Mariory Cuik; the Walkning⁴ being rasit in my Lord Aduocattis name, nocht contenand Mariory Cuikis name.

The Aduocat takis instrumentis, that he passis fra the wordis, ‘as administratour, tutour, gyder and gouvernour,’ and kepis the wordis ‘as fader.’

THE JUSTICE findis Williame Cuik, as fader, hes interes to persew for the iniurie done to his dochter; albeit sche wes of perfyte aige quhen the principall Summondis wes rasit, and is nocht present to persew.

The said Mr Johne Russell preloquuntour desyris, that his alledgeance may be recordit be writt.

It is alledgeit, for the pairt of James Chene, that he aucht nocht be putt to ane Assyise for the reveisching of Mariory Cuik, becaus he opponis *exceptio spontanee voluntatis* aganis the force and violence; as he, being fyrst mareit with Katherene Ruthirfurd his spous, and insafar as it is offerit to be provin, before the tyme lybellit, that the said James had carnall deill with the said Mariory; and thairefter, in respect of the familiaritie betuix him and hir freindis, sche

¹ Carried away by force.² Without.³ Having?⁴ Process of Wakening.

frelie, of hir awin meare will, cam to the said James, in cumpany with Marioune Cullen and Helene Qubyte, remanit in his hous be the space of xiiij dayis alto-gidder, he being absent all the tyme furth of the said hous, and sche mycht haif returnit to hir faderis hous att hir pleasour, it being distant bot ane myle or twa att the farrest, hir fader and freindis haifing acces to hir ; the said James being absent be the space of xxxij mylis att the leift, purpossie send to Abirdene to by hir clathis ; during the quhilk tyme sche nocht only administrat hir effairis, bot tuik of hir kiftis and coifferis sic geir as sche pleasit, quhilk thaireftir wes ressaunt aff hir hand be hir fader and mother : Quhilk being done, sche wes perswadit be hir fader and Rychart Vgiftoune to affirm, that sche wes reveist, and sche fould gett geir fra him for hir aduancement. In respect quhairof, the said alledgeance being verefeit presentlie, the mater can nawyis be putt to ane Assyis ; att the leift, this exceptioun and tryell thairof man be tane coniunctlie with the lybell : and takis instrumentis, that thay offer presentlie to verifie the said alledgeance, before the mater be putt to ane Assyse.

The Aduocat alledgis, that the alledgeance aucht to be repellit, in respect of the summondis ; and na probatioun can be ressaunt in the mater, be the Justice.

THE JUSTICE, with auise of his Assessoris, repellis the alledgeance, in respect of the summonds.

The pannell protestis, that nochtwithstanding thair alledgeance be repellit *hoc loco*, that thay may haif place to verifie the said alledgeance to the Assise.

THE JUSTICE continewis this mater to the nynt of July.

PRELOQUUTOIR for the pannell, My Lord Erle of Crawford.¹

Jul. 9.—Allegeis, that the bering of pistolettis or schuting thairwith, can nocht be put to ane Assyse, becaus thair is Commissioun grantit to the Laird of Effilmonth¹ and vtheris thairin contenit, to tak the Laird of Troupe and vtheris, in quhais cumpany the said James wes present, att the executioun of the said Commissioun ; vnder protestatioun, he affermis nocht that he wure pistolettis, att the tyme lybellit ; and producit the Commissioun.—The Aduocat allegeis, that the alledgeance aucht to be repellit, in respect of the Commissioun grantand na Commissioun to the said James Chene ; nather wes he desyrit be the Commissioun, att the tyme lybellit, to assist thame.—Allegeis James Chene, that gif he wure ony pistolettis the tyme libellit, he did na wrang ; vnder protestatioun, becaus his Maiestie directit his Commissioun to certane his Commissioneris, speciallie to Patrik Chene of Effilmonth, his brother : Quhilk Commissioun is ane sufficient to him to beir pistolettis ; and gif ony wyis he hes borne or worne the saidis pistolettis, it wes done with his said brother and vtheris his Commissioneris, in executioun of the said Commissioun.—The Aduocat alledgis that

¹ In addition to those formerly entered.

² Patrik Chene, brother of the pannell.

the said alledgeance aucht to be repellit, in respect of the Commissioun berand na anfuier.—Anfuierit the pannell, the Commissioun gevis ane Warrant to convocat the Kingis liegis.

THE JUSTICE Repellis the alledgeance, except that thay instantlie verifie that he wes with the Commissiouneris the tyme lybellit; and that thay wer in the executioun of thair officeis.

ASSISA for the Reveiffing.

Alexander Fairlie of Braid,	Robert Flefcheour, burges of	William Bandene, alias Ruth-
John Traill of Blebo,	Dundee,	vene, 3ounger of that Ilk,
John Johnestoune, callit John	Patrik Lyounne, merchand, burges	Hector Rae, merchand, burges
of Elphinstoune, burges of Edr,	thair,	of Edinburghe,
Andro Logane of Grantounne,	Gabriell Merfer, burges of Perth,	Thomas Somervell, merchand,
Alexr Wod of Lammieytham,	Mr David Home, brother to the	burgess thair,
David Kynneir of that Ilk,	Laird of Wedderburne,	Mr Archibald Wilkie, in the
John Fairlie of Comeistounne,		Cannogait,

The Affyis being fworne, and the Dittay red, my lord Aduocat produceit for takyn,¹ Letteris of Horning aganis the said James; quhair the said James gaid² to the horne, for the rapt and reveiffing of the said Mariorie Cuke; and als produceit ane proces of the Presbiterie of Deir, fynding the said James gyltie of the said cryme; and als vfit the said William Cuke ayth, to be gewin, quha wes present to offer his aith.³

Repellis the foure-half-about.

It is allegeit that *William Cuik* can nocht gif his aith, becaus the deid wes nocht done to him; and his dochter is absent. *Secundo*, he can nocht gif his aith, becaus that he offeris him to prove, that sen the last Court, the said William offerit to compeir at the bar, and fuier that the reweiffing is nocht of veritie.—The Aduocat takis instrumentis, that he repetis the Interloquuntour pronunceit, that William Cuik had guid interes to persew in this caus, and that he offeris him reddie to fweir the Dittay; in respect quhairof, and of the Letter of Hoirning produceit aganis the pannell for the said cryme, and of the proces and sentence gewin aganis him be the Presbiterie of Deir, for this famin caus; gif the Affyise clange, protestis for Wilfull Errour.

The pannell atkis instrumentis, that gif the King and Kirk wer satisfeit, he wald forgif the said James. The pannell takis instrumentis, that William Cuik declaris that he can nocht, of his conscience, fflye or clange the said James, bot⁴ Mariorie Cuik his dochter tuik vpoun hir conscience, that the said James tuik hir away and reveiffit hir.—The Aduocat thaireftir produceit the said Wil-

¹ Token, or proof.
evidence upon oath.

² Went, suffered himself to be put to the horn.
⁴ Unless, except.

³ Testimony, or

liame Cuikis Depositionis, maid before the Counfall, quhairvpoun he askis instrumentis.

The pannell askis instrumentis that the Aduocat vſes na forder probatioun. *Item*, James Chene produces ane Testimoniall, ſubſcryuit be Dauid Howiefoun, Miniſter of Abirdowr, teſtifeing, that the witneſſes contenit in the proces produceit aganis James Cheyne, teſtefeit na reveiffing.—The Aduocat takis instrumentis, that Mr Johne Ruſſell produceis and gewis in the Testimoniall ſubſcryuit be Mr Dauid Howiefoun, Miniſter of Abirdowr. The ſaidis Maifteris Thomas Craig, Alex^r King, and Thomas Craig (Johne Ruſſell) vſes the ſaid Testimoniall, as preloquoutouris for James Chene, quhilk wes ſend to thame be Mr Alex^r Cheyne amangis the reſt of his writtis, to be vſit in Defence of the ſaid James Cheyne.—The Aduocat produceit ane vther Testimoniall, ſubſcryuit and writtin be the ſaid Dauid Howiefoun, teſtifeing the ſubſcriptioun of the vther Testimoniall to be fals.

SPECIAL VERDICT. The perſones of Aſſyſe being choſin, ſworne and admittit, and the ſaid James being accuſit be Dittay of the crymes foirſaidis; and our ſouerane lordis Aduocat, for verificatioun thairof, haifing produceit to thame our ſouerane lordis Letteris, purcheit at the inſtance of the ſaid Meriorie Cuke and Williame Cuke, hir father; be the quhilkis the ſaid James was denunceit rebell and putt to the horne, in default of fynding of fouirtie, that he ſuld haif comperit befor the Juſtice or his deputtis, to haif vnderlyne the law for the ſaidis crymes; and als, haifing produceit the Extract of the proces led and deduceit aganis the ſaid James, for the away-taking and violent reveiffing of the ſaid Meriorie Cuk, befor the Preſbiterie of Deir, the fourt day of Auguſt, the yeir of God 1597 yeiris, Mr Duncan Dauidfoun being Moderatour; togidder with the Depoſitionis maid be the ſaid Williame Cuke, at Falkland, the firſt day of July inſtant, in preſence of my Lord Chancellor, Theſaurer, Biſhops of Roſs and Dunkeld. Aganis the quhilkis writtis and verificatioun, the ſaid James Cheyne and his preloquoutouris maid diuerſe alledgeanceis for elyding of the ſamyn, and anſueris maid thairto be the Aduocat; the ſaidis perſonis of Aſſyis removit altogidder furth of Court to the Counfall-hous, quhair thay, efter cheſing of the ſaid Dauid Kynneir of that Ilk chancellor, &c., ſtand, pronunceit and declarit the ſaid James Chene to be Clene, innocent and acquit of the rapt and reveiffing of the ſaid Meriory Cuik, dochter to Williame Cuik in Vrinach; and of detening of hir in captiuitie, be the ſpace of xij dayes; and of the deſorceing of hir, committit in the moneth of July, the yeir of God 1^m.V^c.lxxxvij yeiris:¹ And als ſtand, pronunceit and declarit him to be flylit and convict of the lying with hir in the place of Pennan, at the tyme foirſaid, without violence, Quhairvpoun the ſaid James askit actis and instrumentis.

THE JUSTICE continewis the nixt dyet to xx day of this moneth.²

Reason — Forging Mark-pieces.

Jul. 13.—ALEXANDER REID, cutlar in Edinburgh.

Indytit, accuſit and perſewit, ſforſamekill as he, being ane prentar in our ſouerane lordis Coinzie-hous thir diuers yeiris bygane, and haifing the credite to

¹ 1597. This method of marking the year aroſe from the mode of expreſſion then in uſe, viz. An thousand fyue hundredth, thre ſcoir ſeuintene 3eiris. ² See Jul. 20, 1602.

his hienes trew coinzie, ffor the quhilk the Maister-coinzeour fatisfeit him honeftlie and payit him for his panis; nochtwithstanding thair of, he, vnmynndfull of his dewtie, fyrft to God, nixt to his Maieftie, and laft to the faid Maister-coinzeour, the faid Alexander Reid, vpoun the xxviiij day of Junij laftbypaft, gatt ane fals half-merk-peace of copper prentit, with the ballance on the ane fyde, fra Cristian Reid, fpous to David Lowrieftoun, in Corftorphene; and als bocht ane fals batterit peace, blank but prent,¹ fra Williame Smyth, feruitour to William Weylandis, lorymer,² burges of Edinburghe, vpoun the fyrft day of July infant; the quhilkis twa fals pecis, he, vpoun the thryd day of the faid moneth of Julij infant, maift treflonablie prentit, fforgeit and pait his Maiefteis trew prenting irlis with the prent of the mark peace; and thairby hes committit Trefloun.

ASSISA.

Williame Stalker, goldfmyth, burges of Edinburghe,	James Lethingtoun, jufter in the Coinzie-hous,	Robert Thomfoun, goldfmyth, burges of Edinburghe,
Alex ^r Bruce, cuitlar, burges thair,	Dauid Lyndfay, fmyth, burges of Edinburghe,	Robert Tailzefer, cuitlar in Leith wynd,
Williame Myller, meltar in the Coinzie-hous, ³	James Mynto, forgear in the Coinzie-hous,	George Seytoun, forgear in the Coinzie-hous,
Thomas Myller, cuitler, burges of Edinburghe,	Walter Mathie, forgear thair,	Moreis Gray, forgear thair,
Johne Quhyte, cuitler,	Patrik Schaw, prentar thair,	Williame Sinclair, forgear thair.

VERDICT. The Affyis, be the mouth of the faid Patrick Schaw, chancillar, ffand, pronunceit and declarit the faid Alexander Reid to be ffylit, culpabill and convict of the treflonabill prenting of twa mark pecis, vpoun his Maiefteis trew irlis, as his hienes trew coinzie.

Jul. 20.—SENTENCE. The Justice, be the mouth of Walter Pirie, dempftar, decernit and ordanit the faid Alexander Reid to be tane to the Castell-hill of Edinburghe, and thair to be hangit quhill he be deid; and all his movabill guidis to be efcheit, &c.

Jamesucken — Besieging House of Auchmedden — Adultery.

Jul. 20.—JAMES CHENE in Pennan.⁴

The quhilk day, James Chene being enterit on pannell, dilatit, accusit and perfewit of the crymes efter specifeit, thay ar to fay,

For contravening of our foverane lordis Actis of Parliament, in beiring and weiring of hagbuttis and pistolettis vpoun his perfoune, and in his company, oppinlie, outwith houffis, in the monethis of September, October, November, December, Januar, Februar and Marche, the yeir of God 1597, vpoun the landis of Pennan, Auchmedden, and diuerse vtheris boundis, within the therefdome of Abirdene. ITEM, fforfamekill as he, accompaneit with diuerse vtheris, his complices, forneris and brokkin men, all bodin in feir of weir, with hagbuttis and pistolettis and vtheris wappymis, *inuafue*, incontrair the tennour of the Actis of Parliament, laitlie, in the moneth of Marche, the yeir of God

¹ Without any impression.
generally dealt in saddlery.

² Old Fr. spur-maker, *lormier*.
³ The Royal Mint.

Lorimers, besides selling small iron wares,
⁴ See Jul. 9, 1602.

1597, haifing confaut ane deidlie feid, rancour and malice aganis Gilbert Baird of Auchmedden and Lilius Baird his spous, come, be way of Hamefuckin, vnder feyence and cloude of nycht, to the faid Gilbertis duelling-place of Auchmedden, quhair the faid Lilius Baird was for the tyme, in sober and quyet maner, accompaneit with hir bairnis and ferwandis, hir husband being absent, and thair clam¹ the cloife dykes of the faid place, pullit out the stanchellis² of the kitchen wyndoys, brak vp sum duris, and assageit the faid Lilius and hir ferwandis within the faid place, be the space of thre houris or thairbye ; clam vp to the tops of thair houffis, kaist in stanes at the chymnay heid, schot in hagbutis and pistolettis at the duris and wyndoys of the faid place ; schot the faid Lilius throw the claytbis, scho being grit with barne ;³ ffor feir of the quhilk schot, scho schortlie thairefter pairtit with the faid barne,⁴ quhilk was crewallie slane be the faid James ; and swa, ye committit Hamefuckin, Assageing of houffis vnder feyence and cloude of nycht, and hes contravenit the tennour of the faidis Actis of Parliament, in beiring, weiring and schuting with hagbuttis and pistolettis. *ITEM*, for contravening of our fouerane lordis Actis of Parliament in abusing of his bodie in notour Adulterie, with Mariorie Cuke, dochter to Williame Cuke in Vrinot, within his awin duelling-place of Pennan, in the monethis of July and August, the yeir of God 1597, he being mareit with (Katherine) Rutherfurd, his spous, and being vndeureit.

The faid James declarit, for obedience of his Maiestie, that nochtwithstanding that he was maist innocent of the faidis crymes, and that he may vse his lawfull defence aganis the samyn, he vald become in our fouerane lordis will ; provyding alwayes his lyffe may be saiff : Quhairvpoun the faid Mr Thomas Hammiltoun, and als the faid James Chene, askit actis and instrumentis.

Jul. 30.—The Justice produceit HIS MAIESTEIS WILL, quhair of the tennour followis.

REX,

JUSTICE, Justice clark and 3 our deputtis, We greit 3ow hairtie weil : fforfamekill as James Chene of Pennan, being accusit before 3ow for findrie crymes, he voluntarie become in our will, for pe cryme of Adulterie and fyndrie Oppressiounis committit be him. Heirfoire it is oure will, that 3e fall gif furth dome aganis pe faid James, that he fall be Baneischt this cuntry, and fall nawyis returne within the same, without onre Licence, vnder pe pane of death, to be incurrit be him, and of pe sowne of thre thousand markis to be incurrit be his cautioner, quhome 3e fall ordane him to fynd for his remaning furth of pe cuntrey ; and that befor he be put to libertie. Quhairanent thir presentis falbe to 3ow ane sufficient Warrant. Subscryuit with our band, At Falkland, pe xxvij day of Julij, 1602.

(Sic subseribitur) JAMES REX.

The quhilk Will the faid Justice-depute pronunceit, &c. ; and the faid James askit actis and instrumentis.

Slaughter — Shooting of Hagbuts and Pistolets.

Jul. 21.—DAVID GRAHAM of Craig, and Alexander Kennedie of Balararak.

Dilatit of art and part of the Slaughter of vinq^{le} Richard Spens, seruitour to Johne Erle of Cassillis ; and for beiring and weiring and schuting of hagbuttis and pistolettis ; committit in December.

¹ Climbed.

² Iron stanchions.

³ Pregnant.

⁴ Miscarried.

PERSEWAR, Mr Thomas Hammiltoun of Drumcarne, aduocat.

PRELOQUUTOIRIS for the pannell, Mr Thomas Craig, Mr Alexander King.

Comperit Rychard Spens as fader, . . . Spens and . . . Spens, as brether to vmq^{le} Rychard Spens, and declarit thay wald nocht infist in perfuit of Dauid Grahame of Craig, att this present, and att na tyme heireftir ; and als desert. The said Dauid Grahame declaris, he offeris him reddie to vnderly the law, for the crymes contenit in the letteris.—The said Rychard Spens and his sonis desyrit that the perfuit of Alexander Kennedie sould delay, quhill thay may haif tyme to summond ane Affyis.—The said Alexander Kennedie takis instrumentis that he offeris him to vnderly the law, for the crymis lybellit ; disaffenting to all continewatioun now, as ofbefore.—‘ DESERT’ as to Grahame : And as to Kennedie, continued to the Justice-air of ‘ Air, tertio Itineris.’

Adultery.

Aug. 19.—ELSPET HEISLOP, lait fervand to Archibald Bauld, indueller in Edinburghe.

Dilatit and accusit for contravening of our fouerane lordis Actis of Parliament, in abusing of her body in the filthie and abhominable cryme of Adulterie with Dauid Gray,¹ fischmunger in Edinburghe ; committit in the monethis of March, Apryle, Maij, Junij, Julij, August, September, October, November, December, Januar and Februar, in the yeiris of God 1594-5-6-7-8-9, 1600 and 1601 yeiris, att the leist, in ane or vther of the saidis monethis and yeiris *respectiue* foirsaid ; and that within the burcht of Edinburghe, att the West-port thairof and vtheris pairtis, about the said burch : In the quhilk cryme sche hes procreatt and borne to the said Dauid foure findrie bairnis, quhairof twa deceiflit this lyffe, vnbapteist ; and ane is yit on lyfe, vnbapteist.

Quhilk cryme the said Elspett confest, and become in our fouerane lordis will for the famin.

(Nov. 27.)—SENTENCE. The Justice ordanit the said Dauid Gray and Elspeth Hillope to be kairtit throw the Toune, and ane paper vpone thair heid, contening thair cryme : And to be banischit the said burgh ; and nocht to return thairin, during all the dayis of thair lyftyme, vnder the pane of deid.

Slaughter.

Nov. 10.—JOHNE CONGILTOUNE, gairdner, in the Plesance (of Ed’.)

Dilatit of art and pairt of the Slauchter of vmq^{le} George Spottifwod, brother-german to vmq^{le} Ninian Spottifwod of that Ilk ; committit in Junij 1588 yeiris.

¹ See Jan. 12, 1602.

PERSEWAR, Agnes Spottiswood, onlie dochter to the said vmq^{le} George.
PRELOQUUTOIR for the pannell, Andro Blak.

The said Johne Congiltoune allegeis that this mater can nocht pass to ane Assyis, in respect he hes our fouerane lordis Remissionne, grantit for the slauchter of the said vmq^{le} George, vnder our fouerane lordis Previe Seill, of the dait, at Edinburghe, the thrid day of Marche, the yeir of God 1588. And als, produceit ane Letter of Slaynis, grantit be Williame Spottiswod of that Ilk, Mr Johne Spottiswod his father-brother, Williame Spottiswod, Alexander Spottiswod and Spottiswod, brether to the said vmq^{le} George, and Cristian Thomesounne, the relict of the said vmq^{le} George, to the said John Congiltoune, daitit at Edinburghe; the xxij day of Februar 1588.

Dauid Corfbie, merchand burges of Edinburghe, James Dauidfounne, flescheour burges thair, become cautioneris and fouerteis, coniunctlie and feuerallie, to satisfie the partie persewar, as law will; Lykeas, that he fall pass the said Remissionne the Grit Seill, vnder the pane of ffourtie pundis.

Slaughter — Shooting of a Pistolet.

Nov. 19.—WILLIAME WAUCHOPE, sone lauchfull to vmq^{le} Johne Wauchope, baillie of Nudrie.

Dilatit of airt and pairt of the Slauchter of vmq^{le} Johnne Symfoun, messinger in Edinburghe; committit in the moneth of October or thairby, the yeir of God I^m.V^c.lxxxxix yeiris. ITEM, for contravening of our fouerane lordis actis of Parliament, in schuiting of ane pistolet at James Wadie, sone to vmq^{le} Wadie, wrycht.

VERDICT. The Assyse, be the mouth of Archibald Geddes elder, burges of Ed', chancellor, stand, pronounceit and declarit the said Williame Wauchop to be Giltie and ffylit of the saidis crymes *respectiue* aboue writtin.

SENTENCE. To be tane to the mercat croce of Edinburghe, and thair his heid to be strukkin fra his body; and all his moveabill guidis to be escheat, &c.

Child-murder.

Nov. 27.—AGNES COWANE in Corstorphin.

Dilatit for the crewall Murthour and Slauchter of ane young infant barne, procreat be her to George Kyle, seruitour to the Laird of Corstorphin.

VERDICT. The Assyse, be the mouth of Patrik Home of Polwart, chancellor, stand, pronounceit and declarit the said Agnes to be culpabill and convict of the saidis crymes.

SENTENCE. To be tane to the Castelhill of Edinburghe, thair to be hangit vpone ane gibbet quhill scho be deid, and all her moveable guidis escheit, &c.

Adulterating and Uttering Base Coins, &c.

Dec. 15.—ALLANE NAPER, cutteller in Glesgow.

Dilatit ffor the treffonable gilding of twenty fevin fals aucht-merk and foure-merk peces, of the number of threfcoir fals aucht-merk and four-merk peces; quhilkis war fend to him to his duelling-hous in Glesgow, be Campbell of Glenlyell, about tua yeir fyne or thairby; togidder with tua licht angell-nobillis, and that with Donald M'nair, ferveand to the said Campbell of Glenlyell.

VERDICT. The Affise, be the mouth of James Hoppringill of Quhytebank, chanceler, ffand, pronunceit and declairit the said Allane Naper to be flylit, culpable and convict of the crymes aboue writtin: and that, in respect of his awin Confessioun maid in jugement, and of his cumming in the Kingis Maiesteis will thairfoir.

SENTENCE. To be tane to the Castell-hill of Edinburghe, and thair to be wirreit at ane staik, and his body brint in affis; and all his moveabill guidis to be escheit, &c.

Slaughter.

Jan. 4, 1603.—WILLIAM WAUCHOPE, brother to vmq^{le} Archibald Wauchope of Nydrie.¹

Dilatit of airt and pairt of the Slauchter of vmq^{le} David Edmestoun of the Wownett, committit in the moneth of

PERSEWERIS, Aliesone Home, relict of the said vmq^{le} David, Ewfame Edmestoun, sifter.

PRELOQUUTOURIS, David Home of Rowiestoun, George Home brether to the said Aliesoun.

PRELOCUTOURIS for the pannell, Mr Laurence McGill, Mr George Wauchope.

The pannell takis instrumentis, that nane compeir to infist in his persute, bot the partie. It is allegit be William Wauchope that this matter can nocht pas to the knowledge of ane Assyse, nor that the partie hes na entreis to persew, bot ressaunt ane Assythment.²—Ansuerit that thair is na thing produceit to verifie.

THE JUSTICE repellis, in respect nathing is producet to verifie.

It is forder allegit that this matter can nocht pas to ane Assyse, in respect his Maiestie hes remittit the saumyn, be his speciall Letter of grace, quhilk is produceit, blank in the dait, and subscryuit be his Maiesteis allauerlie.—It is ansuerit be the persewer, that this Letter is only ane Letter, blank, sinisterusslie purchest, contrair the Act of Parliament, vndaittit, vncomponit be the Thesaurer, and subscryuit only be his Maiestie; quhilk is nocht sufficient of the law.—It is

¹ See Feb. 2, 1603.
solatium for the Slaughter.

² A fine or compensation made to the relations of the party slain, as a

declairit be the defender, that he cumis in his Maiesteis Will, baith concerning the fact and the imperfectiones of the Letter.

The parteis producit ane Letter, subscryuit be his Maiestie, commanding the Justice to proceid and minister Justice, and put him to the knowledge of ane Assyse, for Slauchter and beiring of pistolettis.

THE JUSTICE continewis this mater to Thurisday nixt; and wairnit the Assyse, *apud acta*, to the said day.—(Jan. 6.)—‘DESERT.’

Importing and Uttering Base Coin.

Jan. 13.—ALEXANDER THOMESOUN, mariner in Borrestounes.

Dilatit, accusit and persewit for the treffonable hame-bringing of fourfcoir fax false merk-peices furth of the realme of Ingland to Scotland; and for the treffonabill out-putting of sex of them to . . . Gray, Baillie in Eyemouth; committit in the moneth of Januare instant.

VERDICT. The Assyis, be the mouth of David Home of Rowistoun, chancellor, fand, pronuncet and declaret the saidis Alexander Thomesone to be ffylet, culpable and convict.

SENTENCE. To be tane to the mercat croce of Edinburghe, and thair to be hangit vpon ane gibbet, quhill he be deid; and his guidis, geir, landis, heritageis and possessiones, gif he ony hes, to be sforfalt and escheit, &c. As also, ordanit the saidis fourfcoir fax false merk-peices, quhilkis war producit in jugement, to be meltit and distroyit at the said croce.

Murder — Theft.

Jan. 20.—JOHNNE RAMSAY, sumtyme in Meluill mylne.

Dilatit of the crewall Murthour and Slauchter of vinq^{le} James Roife, sumtyme thesaurer and burges of Edinburghe; committit vnder silence and clud of nycht, vpon the aughtene day of September, I^m.Vj^c. and ane yeiris; and thifteous Steilling and away-taking fra the said James, of his horse, cloik and purse, at the tyme foirsaid.

VERDICT. The Assyis, be the mouth of David Fairlie merchand, chancellor, fand, pronuncet and declairit the said Johnne Ramsay to be ffylet, culpable and convict of the saidis crymes.

SENTENCE. To be tane to ane gibbet, besyde the corse of Edinburghe, and thair to be hangit quhill he be deid: And thaireftir, his heid to be strukkin fra his body, and put on the Nether-boll of Edinburghe; and the remanent his memberis to be vsct at his Maiesteis directioun, and his haill moveabill guidis to be escheit, &c.

Jamesucken—Rapt, Ravishing and Forcing.

June 21.—HENRIE SINCLER of Quhytkirk.

Dilattit, accuset and perfewit at the instance of Mr Tho. Hammiltoune of Monkland, aduocat to our fouerane lord, for his hienes entreis, of the crymes following, viz.

FORSAMEKILL as the said Henrie, being accompaneit with James Hepburne, serueand for the tyme to the Laird of Roßling, Andro Anderfone, and vtheris thair complices, with convocatione of our fouerane lordis leigis, to the number of aucht perfones or thairby, all bodin in feir of weir, with fwoirdis, secreteis, steil-bonettis, &c. laillie, in the moneth of December, 1^m. Vj^e. yeiris, come be way of Hamefukkin, vnder silence and clud of nicht, to vmq^{le} George Carkettillis duelling hous of the Monkirig, quhair Margaret Carkettill, now spous to Archibald Hammiltoune of Bairfute, was, in sober and quyet maner for the tyme, takand the nichtis rest; and thair brak the said hous, enterit within the samyn, and put violent handis in the said Margaret, had and raveischet hir away with thame perforce; and convoyit hir away to the place of Merkill; quhair the said James forcet and abuiset her body: And thaireftir, transpoirtit hir to the place of Qubitekirk, quhair scho was detenit all the nicht captiue and prissoner, and keipit and detenit hir in captiuitie with the said Henrie and remanent perfones soir-faidis, be the space of aucht dayis thaireftir, or thairby; scho being our fouerane lordis frie leige; vsurpand thairby his hienes auctoritie vpone thame: And sua, the said Henrie was airt and pairt, red and counfall of the taking of the said Margaret, and of the Rapt and Raveisching of hir, and keeping of hir in captiuitie; scho being his hienes frie leige; and of the fforceing and abusing of hir body, to the greit contempt of our fouerane lord, his hienes auctoritie and lawis: At the leift, of Resfetting of hir, in maner foirfaid.

Comperit, Johne Home, Constable of the Castle of Edinburgh, and takis instrumentis of the entrie of the pannell.

ASSISA.

Sir Johne Ker of Spylaw,	Henrie Lauder, in Dunbar,	Adam Hepburne of Bonhard,
Stevin Brantfield of Grynd-	Adam Scott, brother to the	James Henderfone of Drydane,
lawdene,	Laird of Dryop,	And nine others,

(Feuars and burgesses, excepting 'Mr Thomas Levingstoune, sone to the Laird of Hayning.')

The said Henrie denyit the Dittay, and ewerie poynt thairof.

The Aduocat alledgeit that the said Henrie could nocht deny the Resfett.

VERDICT. The Assyis, be the mouth of the said Adam Hepburne, chancellor, in respect na pairtie comperit to fweir the Dittay, nor that nathing wes producet be our fouerane lordis Aduocat for verifeing thairof, stand, pronuncet and declairit the said Henrie to be Clene, innocent and acquyte of the baill poyntis of Dittay aboue specifcit. Quhairvpone the said Henrie Sincler askit instrumentis.

High Treason—Doom pronounced upon the Dead Body of a suspected Traitor, produced at the Bar of the Court.

Jan. 31.—FRANCES MOUBRAY, deceased, (son to the Laird of Barnbowgall.)

[THE Case of FRANCIS MOWBRAY may, perhaps, be considered as one of the most extraordinary of its kind, in the whole range of the Criminal Records of this or of any other country. There is something monstrous in the idea of wreaking vengeance on the lifeless remains, even of the most atro-

cious criminals; but in the present instance, the victim had only been imprisoned in the Castle of Edinburgh, on vehement suspicion of Treason; and, in his endeavour to effect an escape, he was precipitated over the rocks, and killed. The production of the mangled body of the suspected criminal, at the bar of the Supreme Criminal Tribunal of the country, and the subsequent sentence of Forfeiture, however repugnant to modern ideas and to every proper feeling, were by no means, in themselves, solitary examples of such procedure, in cases of High Treason. To avoid repetition, reference is made to a Notice prefixed to the Forfeiture of Logan of Restalrig, (see Vol. II. p. 276,) for several illustrations of a similar nature. In addition to these instances, it may be noticed, that *Robertson*, in his History of Scotland, observes, that after the battle of Corrichie, the dead body of the Earl of Huntly was presented in Parliament, before sentence of Forfeiture was pronounced against him; and other cases might easily be mentioned.

In order to arrive at the *facts* of this case of Francis Mowbray, which are of themselves of considerable historical importance, the Editor found it necessary to institute an examination of various contemporary Histories and MSS. preserved in the Advocates' Library.

The most accurate account of Mowbray's Treason, however, is detailed by *Archbishop Spotswood*, (p. 471,) in the following brief passage. 'About the same time, the King had intelligence given him, that one FRANCIS MOWBRAY, son to the Laird of Barnebowgall, who had lived a while in the Infant's Court at Bruxells, had undertaken to kill him. This brake out first at London, by an Italian, a fencer, whose name was Daniel; which coming to the Queen's ears, she commanded Sir Robert Cecil, her secretary, to call the persons (for they were both in the city) and examine them. The Italian abode by his speeches. Mowbray denied, and offered to prove him a liar, in combat; which the other accepted. Both being sent into Scotland, they were tried (examined) first severally, then confronted before certain of the Council. The Italian produced witnesses, who verified all that he had deposed: Whereupon Mowbray was committed to the Castle of Edinburgh; where, seeking to escape by night, at a window of the chamber where he was detained, the sheets proving too short, by which he thought to descend, he fell from a great precipice; and was found, the next morning, dead, at the foot of the rock. The corps was the same day, being the last of January, presented to the Justice, and Sentence of Forfeiture pronounced against him; his body hanged for a space upon the gibbet, and afterwards quartered, and affixed to the gates and most open places of the town. His friends (for he was well born, and a proper young gentleman) gave out, that he had been strangled, and his corps thrown down at the window. But this carried no appearance, and was believed of few.'¹

From the various Collections of State Papers of this period, we find, that King James was kept in constant alarm, from the incessant machinations of British as well as Foreign Papists and Jesuits; and, owing to many previous communications from the English Court, advertising the King of the certainty of such attempts being on the eve of execution, his Majesty had probably considered it necessary to make very severe examples of the first plotters who should be detected.

These Popish plots were in constant agitation, until the remarkable discovery of the Gun-Powder Treason, Nov. 5, 1605. *Culderwood* records one instance, in his MS. Church History, not mentioned by other historians, where the King certainly acted with unwonted lenity, no doubt in consequence of *Instructions* from Queen Elizabeth. It is thus briefly told. 'About the end of April (1602,) an English gentleman addressed himself to Court; and got presence of the King, upon the last of Aprile; and conferred with him a little space, in Dumfermline. Therafter, he went to his lodging. He flew

¹ Robert Birrell gives the following account of this monstrous proceeding. 'The 3d of Januar, Francis Mowbray brake ward out of the Castell; and he fell owir the wall and brake his craige. Thairefter he was traillit to the gallows and hangit; and thairefter was quarterit, and his heid and four quarteris put one the four Portis.'—*Diary*, p. 57.

James Chambers, one of the Kingis servants, and hurt the barber that was peling his head, before they were aware. He was apprehended and putt in the Tolbooth of Dumfermline. He cryed like a mad man, "The hour! The hour! The King!" &c. Being examined, he confessed that he and ane Italian fould have slaine the King. As is reported, he was transported to the Castle of Edinburgh, and kept in the irones; but within a quarter of a year was sett at liberty. It was reported that the King thought not much of the matter, but tooke the man to be some what distracted in his witts.'

Without further remarks, the remaining Papers which have been collected are appended, and left for the reader's deliberate consideration.]

THE JUSTICE ordanit his Maiesteis Precept to be insert and regiftrat in the buikis of Adiornall.

REX,

JUSTICE, Justice clerk and your deputis, We greit 3ow weill. Forfamekill as vmq^{le} Frances Mowbray, being accuset of maist heich, horrible and detestable poyntis of Treffone and Lesinaieftie, aganis us, our persone and Estait, and for pe samyn, committit to waird within our Castell of Edinburgh; and the samyn being sufficientlie verifeit be pe Depositiones of twa or thre witnessis, and pe tryell pairof sa cleir, pat pair remanit na obscuritie of pe same. The said vmq^{le} Francis, obduret in mynd, and to all appearance seducet be Sathan, quha was the first motioner of theis his devillische interpryses, hes, vpone intention to escaip furth of our waird, procurit his awin miserable and schamefull death; and hes maid his giltines (be his breck of waird) mair nottour and manifest. It is our will heirfoir, that 3e cause give dome and sentence aganis him, to be demaynit, quarterit and hangit; and his heid and quarteris to be put vpoune pe maist publict pairtis and places of our burghes of Edinburgh; as ane quha is gillie of pe saidis crymes. And pat 3e direct pe officiaris (to quhome pe executioun of theis turnes belang) to do pe same, with all pe formes accustomet in sic caissis: Quhairnent pir presentis fall be 3our Warrant. Subferyuit with our hand, att Halyrudhous, pe last day of Januare, 1603.

(Sic subferibitur)

JAMES R.

MONTROIS, CAN^{rius}. MAR. HEREIS. HALYRUDHOUS.

S^r G. HOME, THE^r. JO. PRESTOUN. M. T. HAMMILTOUNE.

SENTENCE. According to the quhilk Precept, and for obedience thair of, the Justice, be the mouth of Walter Peirie, dempstar, decernit and ordanit the said vmq^{le} Frances Mowbray, now presentit on pannell, to be demanit as ane tratour, as eftir followis: That is to say, To be hangit be the craig vpoune ane gibbet, besyde the mercat-croce of Edinburgh, and his body to be quarterit; and his heid, ane leg and ane airme to be put vp above the Nether-boll, ane elne aboue the rest; and ane vther leg to be hung on the West-point of Edinburgh, and ane vther airme to be hungin vpoun the Potter-raw-point: And all his landis, heritageis, takis, steidingis, rowmes, possessiones, coirnes, cattell, guides and geir to be ffoirfalt and inbrocht to our souerane lordis vse, as gillie of the saidis trefsonabill crymes. Quhilk wes pronuncet for dome.

PAPERS illustrative of MOWBRAY'S TREASON.

1. EXTRACTS from *Calderwood's MS. Church History*.

(Oct. 1602.)—IN October, the King was advertised, out of England, of a Conspiracie. Ane Italian, who had been in this countrie eight years, alledged upon FRANCIS MOWBRAY, sone to the Laird of Barnbougall, that he solicited him to take part with him in cutting of the King, by poyfone or some

other means. They were both presented before the Counsell of England. At the Kingis desyre, they were sent to Scotland. The Italian affirmed constantly,¹ before the King, and offered to fight the Single-combate with Francis. Francis, being examined, be certaine of the Kingis Counsell, denyed; and offered to fight with the Italian.

(Jan. 5, 1603.)—IT was ordained that FRANCIS MOWBRAY and the Italian, who accused him of Treafone, would fight, hand to hand, in the great clofe of the Abbey of Halyrudhoufe. The 5 of Januar was appointed for the combat. The baraffe being made and preparation, advertifement was sent two or three dayes before, out of England, to flay the Combate; becaufe there was certaine Scotifh-men, who would verifie the Treafone. Soe, upon hope of further tryell, it was delayed.

(Jan. 29, 1603.)—IN the meantyme, upon the 29 of Januar, the King and Counsell were occupyed, for the most part, all that day, in the examination of FRANCIS MOWBRAY and the Italian, and confronting Francis with other two Scotifh men sent out of England, bot of light accompt, becaufe they had spent their moyen, and wes forced to leave the country,—to witt, Mr Walter Mowbray and John Anderfone. The day following, that is to say, the Lord's day, the penult of Januar, Francis Mowbray assayed to come down the wall of the Castle upon peeces of the blanketts of his bed, sewed together on the night before. The blankets were too short; so he fell, and falling, feld himself upon the craig, about eight houres at night. He was apprehended immediately, but was speechlesse, and dyed about three houres in the morning.

Upon Monnday the last of Januar, his body was drawn backward to the Tolbooth, where the doome was pronounced, that he shold be drawn backward to the gibbett, and there hang for a certaine space; and then be quartered; and the members of his body to be sett up in publick pairs of the town. It is marked, that when he was examined, he said, before the King, 'If ever I thought evill, or intended evill against my Prince, God, that marketh the secreits of all hearts, make me to fall at my enemies feett; make me a spectacle to all Edinburgh; and cast my soul in Hell forever!' And, being required, subscribed these words. He fell at his enemies feet indeed! For the Italian was above him in a Chamber. He was made a spectacle to Edinburgh. As for the third, we remitt to God, who saveth and condemneth whom he pleaseth. It is reported, that he fought his supper sooner than at other tymes, as though he had some Letters to write: After supper, he rave the blanketts in four pieces, and sewed them together; and that he was minded to doe the like with the sheets. The keeper, coming to the door, and finding it close, cryed. He thrust himself, for haste, out at the window, and cometh down upon the blanketts. The blanketts being short, he falleth. Some horfemen were awaiting on, to carie him away; but finding him unable, they spoyled him and departed; and his body was brought up to the Castle. The Italian was fet at liberty, and was to be rewarded.

2. EXTRACT from an Anonymous MS. History of Scotland.²

(Jan. 30, 1603.)—FRANCIS MOWBRAY, being warditt for allegit Treffoune aganis (his) Majefty, brak waird; and being aschaipitt³ be the watche of the Castell, thay schaukis him out of the claitthis quhilke he wes gangand doune into; quhairby he fallis, and flayis him selfe be the same.

3. EXTRACTS from Cecil's Secret Correspondence with King James.

(i.) MOWBRAY, to Daniel and others, did confes a purpose, in his own heart, to be made an instrument against the person of the King, whensoever he were set in hand; and to affect all persons opposite to the present carriage of your affairs, as he would demonstrate upon the first opportunity. If other *embryones*, which are yet *informes*, but yet dangerous, come any nearer to the likelihood of any formal shape, his Majesty shall be advertised; though, in the mean, we repute it a great indiscretion to reveal our uttermost, before the desire of utterance, out of a sound affection, becomes so strong as

¹ With constancy, without prevarication.

² Advocates' Library, A. 4. 35.

³ Escaped. Perhaps for espied.

the son of Cræsus would, by straining, break the strings of his tied tongue, to deliver what his love and duty binds him to.¹

(ii.) CECIL and I are very glad that the Laird of Weemes² had no better warrant for his traffick with this busy body.³ The man is not honest, nor was drawn to this discovery of *Mowbray's Treason* by love to the King, but merely upon spleen and malice to the party, upon the fractions of old amity. In this point we will say no more, but only wish, for the good of the King's service, that he neither have encouragement to come, nor entertainment, though he should chance to come; which I do not think will happen, because Cecil's angels⁴ have him in charge, for the working out of more stuff, if it be possible; and his pension seasons him in the giddiness of his natural and habitual uncertainties.

From Francis Mowbray, Cecil did never hear word, since the last which was advertised; which makes him wonder, both at the pause, and at the motive that may cause it, after so large promises. Cecil will observe the King's direction, as well in mining, by invention and subornation, into his ends, as by continuing the pension, though he have very ill deserved it. He doth concur with the judgement of King James, touching the peril that may grow by driving him into despair, for want of provender, before the close decks be discovered. You may, in like sort, assure King James, that Cecil will take no extraordinary course with him, about King James's particular, till he take him with more meat in his mouth, and the matter be so pregnant as negatives would be found both ridiculous and impudent.⁵

Bearing, Wearing, and Shooting Hagbuts and Pistolets, &c.

Feb. 1.—SIR HARIE LYNDSEY of Carrestoun.

Perfewit be Mr Thomas Hammiltoun of Drumcaine, aduocat, of the DITTAY following, product be the said prisoner.

SIR HARIE LYNDSEY of Carrestoun, Ye ar indytit and accuset, forfamekill as it is statute and ordanit be dyuerse our souerane lordis Actis of Parliament, that na maner of persone or persones tak vpone hand to beir or weir hagbuttis or pistolettis, or ony vther ingyne of fyre-wark vpone thair persones, and in thair companeis, oppinlie, outwith housis, or schute thairwith at ony persone or persones, vnder the pane of cutting af of thair rycht hand, and vtheris panis thairin contentit: Nochtwithstanding quhairof, it is of veritie, that ye, being forgetfull of your dewtifull obedience and reverence, quhillk ye fould haif gevin to the saidis Actis and lawis, and of the guid exampill quhillk ye fould haif gevin to vtheris his Maiesteis leigis, in respect of your place, office and seruice in his Maiesteis houthald; ye, laitlie, vpone the . . . day of Januare lastbypast, with convocationun of our souerane lordis leigis, to the number of ten or tuelf persones, all bodin in feir of weir, with secreitis, steil-bonetis, hagbutis and pistoletis, past fra the Palice of Halyrudhous towardis Perth, quhair ye was informet Patrik Eviot, brother to Colene Eviot of Balhouslie,⁶ was in the South-Inche thairof for the tyme; and thair set vpone him, and crewallie invaidit him for his slauchter, and chaiffit him to ane cok-boit, quhillk he wes compellit to tak, and enter in the watter of Tay, for saiftie of his lyfe: And he being thairin, ye and your company schot and dilaschet the number of ten or tuelf schott of hagbuttis and pistolettis at him,

¹ Lord Henry Howard to Mr Edward Bruce; without date, but about Aug. 1802. See Vol. II. p. 319, *Note*.
² See Vol. II. p. 276, *Note*. ³ The Master of Gray. ⁴ *Golden angels*, bribery. ⁵ Lord Henry Howard to Mr Edward Bruce—probably written soon after that of the 27th August, 1602.—*Hailes*. ⁶ Although Eviot escaped this barbarous attack, he was murdered, five years afterwards, by his wife and her paramour. *Fleming* gives the following graphic account of this transaction, in his curious MS. Chronicle, preserved in the Library of the Faculty of Advocates. (8th Apr. 1608,) 'PATRIK EVIOT, brother-german to the Laird of Balhousie, wes murtherit in Blelok, be his wyfe Jonet Ross, quha wes air to the Lairdschip of Craigie and Kynfawnes both (*also*,) He wes schote with ane gun in his bed, sleipng, be James McNair. Thairefter, they wer both taikin and exeute; and brunt, efter they wer hangit, in the Playfeld of Perth, the 17 May 1608. His heid and arme putt wp on the Castell gawill port.'

of purpois to haif flane him ; quhilk ye had nocht failz it to haif done, war nocht he lay darnet¹ on his face, in the boddome of the said boit. Be beiring, weiring and schuitting of the quhilkis hagbuttis and pistolettis, ye haif contravenit the tennour of the saidis Actis of Parliament, and incurrit the panis contenit thairin ; quibilk fould be execute aganis yow with all rigour, in exampill of vtheris, &c.

The said Sir Harie Lyndsay declairit, for obedience of the Kingis Maiestie, and for the offence done to his hienes, mynding nawyis to vse ony defensis be law, albeit he mycht vse thame ; he will becum in his Maiesteis Will for the Dittay producet be the Aduocat : Protesting, that his becomming in will preiudge him nocht, anent ony defens that he will vse aganis ony pairtie that fall happin to persew him, heirefter, for the saidis crymes : Quhairvpoun he askit instrumentis ; and lykwayis our fouerane lordis aduocat askit instrumentis of his becomming in his Maiesteis will.

The samyn day, Patrik Eviot protestit, that the said Sir Harie Lyndsayis becomming in will fould nocht preiudge him of ony actione that he had to persew aganis him.

Slaughter — Sentence of Banishment.

Feb. 2.—WILLIAME WAUCHOPE, sone to vmq^{le} Robert Wauchope of Nydrie.²

Compeirit Johne Mayne, and producet ane Precept contening HIS HIENES WILL, togidder with ane delyuerance of the Lordis of Secreit Counfall, quhilk the Justice ordanit to be insert and registrat in the buikis of Adiornall ; quhair of the tennour followis.

REN,

JUSTICE, Justice Clerk and 3our deputis, We greit 3ow weill. Forsamekill as Williame Wauchope, sone lauchfull to vmq^{le} Robert Wauchope of Nydrie, being laillie persewit befor 3ow, to haif vnderlyne our law, for airt and pairt of pe slauchter of vmq^{le} David Edmestoune of Wowmett ; for pe quhilk slauchter he is becum in our will, in hoip of our clemencie and fauour : We pairfoir, for dyuerse considerations moveing ws, temperand the rigour of justice with clemencie, haif declairit and declairis our will towardis him, as followis : That is to say, That the said Williame fall depairt furth of our realme to quabtfumenir pairtis he pleissis, betuix pe dait heirot and pe first day of Marche nixto-cum ; and nawayis to returne agane within pe samyn, without our Licence first had and obtenit pairto : And for pat effect, to find sufficient cautionne actit in pe buikis of Adiornall, vnder the pane of fyve hundreth pundis, to be payit to our Thesaurer in our name, in cais of failzie. And forder, in cais it fall happin pe said Williame to returne agane within our realme, eftir his departour, without our licence, as said is, that, in pat caise, he fall die pe deathe pairfoir, quhairnir he can be apprehendit, be ony of our Justices or ministeris of our lawis : And pat pir presentis salbe ane sufficient Warrant and Commissioun to pat effect. Subscryuit with our hand, att Halvudhous, pe secund day of Febrnare, 1603.

(Sic subscriptur)

JAMES R.

Followis the (Supplication and Warrant.

VNTO 3our Maiestie and Lordis of Secreit Counsell, humlie menis and schawis 3our seruitour, Williame Wauchope, sone to the Laird of Nydrie : That quhair, eftir I haif remanit this lang tyme in waird, within the Tolbuithe of Edinburgh, and haif cum in 3our hienes will and pleasour, foir airt and pairt of the slauchter of vmq^{le} David Edmestoun of Wowmet, it hes plesit 3our Maiestie, of 3our

¹ Hid, concealed.

² See Jan. 4, 1603.

hienes fauour and mercie, to grant ane Warrant for puting of me to libertie furth of the said waird, I findand cautionne actit in your graces buikis for my depairting furth of the cuntrie betuix and the first day of Marche nixtocum, vnder the pane of fyve hundreth pundis, and onnawayis to returne agane within the samyn, without your hienes Licence, vnder the pane of deil. As ye said Warrant heir present to sehaw beris. Out of the quhilk waird I am nocht as zit releuit, albeit I haif done quhat in me lyis to find caution and fouirtie, conforme to ye said Warrant, and hes offerit Johne Robiesoun, flescheour, burges of Edinburgh, cautioner for me to pat effect; and it nawayis lying in my power, as I fall answuer to God, to get ony vper persone to becum caution for me, bot sic perfones as ar nocht responfall in landis and guidis, as the said Johne is, quhair of your Maiestie and lordis as zit haif had a fauourable consideratioun of me and my estait in tyme bygane; sua I maist humlie besek your lordschipis, that ye will freith and releue me furth of the said waird; and that I may haif command to your Maiesteis Clerk of Counfall or Justice Clerk, to reslaue ye said Johne Robiesoun caution for me: Conforme to the said Warrant and your answuer.

(Sic deliberatur) APUD Halyrudhous, primo Februarij, anno tertio 1m.Vje. Fiat ut petitur, Johne Robiesoun and John Mayne, coniunctlie and feuerallie, cautioneris.

(Sic subscribitur)

MONTROIS, CANRIUS. M. R. YOUNG.

Conforme to the quhilk Precept and Will producet, the Justice, be the mouth of James Lowrie, dempstar, pronuncet his Maiesteis will to be, &c.¹

House-breaking — Theft, &c.

Feb. 15.—ANDRO REID in Bervie.

Dilatit for cuming to George Sincleris house, accompaneit with Johne Bennet and Thomas Welfch; breking of the said George house, streking vp of kiftis, and taking furth thair of certane abuilzementis,² clothing, and gold and siluer, pertening to Dame Agnes Sincler Lady Errole, Barbara Sincler and Thomas Sym, messinger, hir seruantis.

PERSEWARIS.

Barbara Sincler, Thomas Sym, messinger.

PRELOQUUTOURIS for the pannell.

Mr Vmplra Blindschell, Mr George Frazer.

Compeirit the Lady Errole, and insistit in the persute of Andro Reid, according to the Dittay; and producet ane Rolment of Court.—Mr Vmplra Blindschell, for the pannell, allegit, that he can nocht be put to the knowlege of ane Assyse for the hail Dittay, except the plaittis; in respect he was put to the knowlege of ane Assyse for the samyn, befor the Scheref of Kynecairne; and the Judge hes fund him nawayis worthie of daith thairfoir, as the proces producet beiris. The pannell askit instrumentis of the production of the Rolment of Court furth of the perseweris handis, quhair Andro Reid is put to the knowlege of ane Assyse be our souerane lordis Commissioun, of the poyntis of Dittay producet, and of the Judges decreit.—It wes answert be the perseweris, to the former allegiance, that he could be put to the knowlege of ane Assyse for the said crymes, becaus he was nather ffylit nor claugit be the Assyse thairfoir: And for

¹ In terms of the Warrant, which is repeated.

² Apparel, dress. Fr. *habiliment*.

the verificatiounne thairrof, producet the proces subferyuit be Neilfoun, clerk thairto : And thairfoir the faid allegiance aucht to be repellit.

The Judge continewis Interlocutor to the morne.

Feb. 16.—The Justice continewis this mater to the morne.

Comperit the haill perfonis of Affyfe, and declairit that thai haif onwaittit this tua dayis vpon thair call, and ar superexpendit ; and protestit that thai be nocht vnlawit heirefter, in cais of thair non-compeirance.—Continued to 17th, and afterwards to 18th.

PERSEWAR,¹ Mr Thomas Hammiltounne.

PRELOCUTOR for the pannell, Mr Johne Scharp.

Feb. 18.—The Aduocat askit instrumentis of the productionne of the Rolment of Court, producet be the pannell, subferyuit be Mr Johne Foullertoun, and protestis (that) the samyn remane in proces ; and adheris to the alledgences, that he is fflyit of the cryme, be his awin Confessiounne, be ane Affyfe alreddie ; and desyres only that dome may be pronuncet aganis him, conforme to the lawis : and that in respect of the Rolment producet ; and consentis he pafs to na Affyfe.—It is anfuerit be the pannell, that na dome aucht of new to be gevin, becaus thair is a judgement alreddie gevin be the Judge, conforme to the Rolment of Court ; and that in respect of the Act of Parliament, quhair it is provydit, that a man anis being clanget, can nocht be of new persewit for that cryme —The Justice continewis this mater to Wednisday nixt.

JUN. 10.—SENTENCE. The quhilk day, Andro Reid in Bervie, being enterit on pannell, as he that was convict be ane Affyfe, in ane Justice-Court halding in Stanehyve, the xv day of September, the yeir of God I^m. sex hundreth and tua yearis, be Johne Keyth in Coltoun, Sheref-deput of the scherefdom of Kincardin, and Capitan Andro Stewart Judge, be vertew of our fouerane lordis Commiffiounne, direct to my Lord Shereff of Kincardin, for cuming to George Sincleris hous, &c. ; quhairvpon na dome wes pronuncet : For the quhilk cause the Justice-depute decernit and ordanit the faid Andro Reid to pafs furth of this realme, betuix the day and dait heirof, and the tent day of August nixtocum ; and never to returne within the samyn ; bot to remane Baneifchit during all the dayis of his lyfe, vnder the pane of deid : And all his moveabill guidis to be effcheit and inbrocht to our fouerane lordis vse, as convict of the faid crymes ; quhilk was pronuncet for dome.

Compeirit Capitane Andro Stewart, and protestit, that the sentence and dome of Baneifchment pronuncet aganis the faid Andro Reid in Innerbervie, be na wayis preiudiciall to the actiounne of Errour, to be intentit aganis the Affyfe, for Clangeing of the faid Andro Reid of the crymes confest be him.

¹ In addition to those formerly entered.
10, 1603.

² No farther proceedings are entered, until June

Slaughter.

Feb. 24.—DONALD M^cANGUS of Glengarie, John Dou M^ckeane V^cdonill voir, Donald M^ckeane V^cdonill voir, Angus M^ckeane V^cdonill voir, his brether ; Findlay M^cdonill V^cdonill voir, Alexander M^cdonill V^cdonill voir, John M^cdonill V^cdonill voir, thair brether ; Rorie M^cmurchie V^cdonill oge, Donald M^cmurchie V^cquhouchie, Tormot M^cmurchie V^ckeane, John Moir M^cmurchie Vic doull oige, John Dou M^ckeane V^cdoull oige, Inving M^cindowy, in Glengarie, and Eweyne Ockerdane Carfar.

Compeirit Williame Makiefoun, and produceit our fouerane lordis letteris, deulie execute and indorfate, purchest be Angus M^cindowie, as brother to Donald M^ckeane V^cdoun, John and Dougall M^cmurdo Boweis, as nerrest of kyn to vni^{le} Donald M^cdonald M^cvolddonich ; John M^cdonald V^cJok, as brother to Donald M^cdonald V^cJok, with the kyn and freindis of the saidis vni^{le} perfonis ; aganis Donald M^cangus of Glengarie, &c. ; be the quhilkis Letteris thay ar demuncett rebellis and putt to the horne, in default of finding of fouertie to haif compeirit this day and place, to haif vnderlyne the law for the Slauchter of the saidis vni^{le} perfonis : Quhairvpone he askit instrumentis ; and protestit for relief of Rorie M^ckenzie of Cultellan, cautioner.

Slaughter.

Mar. 3.—JAMES STEWART, sone to vni^{le} James Stewart, Maister of Buchan.¹

Sir James Scrymgeour of Dudop, kny^t, oft tymes callit, as cautioner and fouertie for James Stewart, sone to vni^{le} James S. M^r of Buchan, to haif enterit and presentit him to haif vnderlyne the law, for airt and pairt of the fellounie and crewall Slauchter of vni^{le} Patrik Bryfone, tailzeour, burges of the Cannogait ; committit in the moneth of October lastbypast, vpone set purpois, &c. : The Justice unlawit Sir James Scrymgeour in the pane of tua hundreth merkis, and als adjudget the said James Stewart to be demuncet, &c., and his moveabill guidis to be efcheit, &c.

Murder — Stouthrief, &c.

Apr. 28.—ALLASTER M^cKIE, Gilchrist Kittoche alias Makilmoyle,
 M^cynroyer, Fyndlaw Dow M^colean.

Dilatit of certane poyntis of Thift, and for cuming to the Laird of Luiffis

¹ ' Patrik Bryfone slaine in the Cannogate be ane James Stewart of Buquhane ; quha wes apprehendit and wardit in Sir James Ballendine's hous ; quhair he remanit still, till the 26 of November, on the quhilk day he brake ward out of Sir James Innes hous.'—*Birrel's Diary*, p. 56.

boundis, in companie with the Laird of M^cGregour, and airt and pairt of the Murthour and Reif committit thairon in Februar last.

DITTAYS against the Pannels.

ALLASTER M^cKIE, ffor airt and pairt of the thiftious Steilling, conceilling and away-taking of foure 3owis, pertening to James Galbraith in Bolgair, furth of Barroun M^cewins corrie or glen ; committit about Michaelmas last. ITEM, for steilling fra the said James of tuelf scheip furth of the said glen. ITEM, for the thiftious steilling of tua lambes in Balglaß, pertening to the Lady Keir. ITEM, for the steilling of tua meirs furth of the landis of Galgerrachene ; committit about Midfomer last. ITEM, for the thiftious steilling of thre meiris or fillies furth of Campsie-mure. ITEM, for commoun thift, &c.—GILCHREIST KITTOCHE, &c., ffor being in company with the Laird of MakGregour and his complices, and airt and pairt with him of the crewall Murthour and slauchter of dyuerse the Laird of Lufes freindis, seruandis and pairtakeris, to the number of sevin feoir perfones ; committit within the Laird of Lufe boundis, in the moneth of Februar last : And for the harieing and spulzeing and reveing of the haill cuntrey thairabout ; and thifteous steilling and away-taking with thame, of the number of aucht hundreth ky, horße, nolt, scheip and vther bestiall ; committit be thame at the tyme foirfaid.

Quhairof the saidis perfones war airt and pairt, accoirding as thair Depositiones and Confessiones beiris.

VERDICT. The Assyse stand, pronuncet and declairit the pannell to be ffylet, culpabill and convict of the haill crymes respectiue aboue speificeit.

SENTENCE. The Justice, be the mouth of James Henderfone, dempster of Court, ordanit thame, and ilk ane of thame, to be tane to the Burrowmure of Ed', and to be hangit vpon the Galloife thairof quhill thay be deid ; and all thair moveabill guidis to be escheit, &c.

Intercommuning with the Clan-Gregor.

May 17.—AULAY M^cCAULAY of Ardincapill.

Compeirit Johnne Dunlop, seruitour to my Lord Duik of Lennox, and producet ane Warrant, subscryuit be his Maiestie ; quhairof the tennour followis.

REX,

JUSTICE GENERALL, 3our depute, Justice clerk, Aduocatt and 3our deputtis, We greitt 3ow hairtie weil : fforfamekill as our louit Aulay M^ccaulay of Ardincapill is summond at pe instance of 3ow our said Aduocat, to compeir on the xvij day of Maij nixtocum, to vnderly the law for the allegit intercommuning with *Allaster M^cgregour of Glenstra*, and vml^e *Johnne Dow M^cgregour* his broper, our rebellis, and for certane vperis crymes and poyntts of Dittay, speificeit and contenit in pe summondis raisit pairanent. And We, vnderstanding that the said Aulay M^ccaulay is altogidder frie and innocent of pe saidis allegit crymes laid to his charge ; and that he is to accompany ws to our realme of England, with our darrest cousing the Duik of Lennox, his maister : Thairfoir, and for certane vperis guid caussis and considerationes-moving ws, it is our Will, and We command 3ow, to desist and ceise fra all calling or accusing of the said Aulay M^ccaulay, the day foirfaid ; or ony wayes proceeding aganis him or his cautioner in the matter foirfaid ; bot suffer the dyett, appoyntit to that effect, to desert in it self, as gif ony sic Letteris had nevir bene raisit ; naper 3it trubill nor molest pe said Aulay M^ccaulay, for the pretendit cause foirfaid,¹ at ony vper dyet paireftir, quhill the returning of our said

¹ See Note to the Laird of MacGregor's Declaration, Jan. 20, 1604.

derrest coufing furth of our realme of England. As 3e will anfuer to us vpone 3our obedience; and pat nochtwithftanding of ony vper Warrant gevin or to be gevin in the contrair: Quhairanent pir prefentis fall be to 3ow fufficient Warrant. Subferyuit with our hand, att Beruik, þe fevint day of Apryle 1603.

(Sic fubfcribitur) JAMES R.

The quhilk Warrant the Juftice admittit, and defertit the faid dyet.

Adultery — Child-Murder.

May 18.—JOHNE RYBURNE of that Ilk.

Robert Montgomerie of Heflilheid produceit our fouerane lordis letteris, purcheft at the instance of Mr Thomas Hammiltoun, aduocat to our fouerane lord, aganes Johne Ryburne of that Ilk, for Adulterie and the Murthour of ane infant bairne, gottin vpoun Agnes Dunlop: Be the quhilk Letteris the faid Ryburne of that Ilk is put to the Horne.

Murder of Seven Score Persons in the Lennox by the Clan-Gregor, &c.

May 20.—GILLESPIE M'DONALD M'INNES Dow, Donald M'clerich alias Stewart, and Johne M'coneill M'condochie.

Dilatit, accusit and perfewit for being in company with the Laird of M'gregour: AND for airt and pairt of the lait grit flauchter and crewall Murthour of fevin feoir perfones in the Lennox,¹ all freindis and fervandis to the Laird of Lufe: AND of the thiftious Steilling and Reiffing of aucht hundreth oxin, ky² and vther beftiall, and herrieing the haill cuntrie; committit in the moneth of Februlare laftbypaft: ITEM, for the thiftious Steilling of tua horfe and ane meir furth of Strabrand, fra Johnne Stewart Neilsoun and his man; committit at Lambes³ laft: AND for commoun Soirning,⁴ &c.—*Donald M'clerich* dilatit and perfewit for airt and pairt of the thiftious Steilling of nine ky and oxin, tua yeir fyne or thairby, fra Patrik Stewart furth of Imervaik, in Athoill; and for commoun Thift and commoun Soirning, &c.

VERDICT. The Affyfe, be the mouth of Johnne Douglas, burges (of Edinburgh), chancellor, fand, pronunceit and declairit the faidis thre perfones to be culpabill and convict of the foirfaidis crymes.

SENTENCE. To be tane to the Caftel-hill of Edinburghe, and to be hangit thair on ane gibbett, quhill thay be deid, &c.

¹ See Apr. 28, Jul. 5 and 14, 1603, &c. 'The 9 of Februartii, the Laird of Macgregor, with four hunder of hes name and factioun, enterit in the Lennox; quhair he maid Spulzie and flauchter to the number of sixty honest men, befyde women and bairnis. He spared nane quhair he came.'—*Birrel's Diary*, p. 58. ² Kine, cattle. ³ Lammas-day, 1st August. ⁴ Taking free quarters by force, (q. d. *sejournant*?)

**Invasion of a Minister, near the Tolbooth, where the Privy
Council were Sitting in Judgement.**

Jun. 29.—WALTER GRAHAME, seruitour to Mr Robert Williamfoun, wryter.

Dilait, accusit and persewit be DITTAY of the crymes following, viz.

FORSAMEKILL as it is statute and ordanit, be oure souerane lordis Actis of Parliament, speciallie be ane Act maid in his Maiesteis ellevint Parliament, cap. 27, that quhatfumeur persone or persones Invaidis ony Minister,¹ or putis ony violent handis in him for ony forget² querrell, fall be pwneist thairfoir with all rigour, and incur the payne of tynfall of all thair moveabill guidis for the said invasioun and violence allanerlie, albeit na slauchter nor mutilatioun follow thairvpon; the ane half of the saidis guidis to be applyit to our souerane lordis vse, and the vther to the pairtie invaidit or offendit, but preiudice of the gritter pwneischment, gif ony heicher cryme concour with the violence and invasioun foirfaid: And als, Proclamatioun was maid, in our souerane lordis name and auctoritie, vpone the . . . day of Junij instant, in the yeir of God, Jm.Vj^e. and thre, befoir the Trinitie flair, that na persone sould invaid or persew ane vther within this burch, during the tyme of the flair, vnder the pane of deid: And forder, it is provydit be dyuerse Actis of Secreit Counfall, that na persone fall invaid ony man, be drawing of ane sword, within ane myle to the Kingis Palice, or to his hienes Counfall, vnder the pane of deid. And trew it is, that the said Walter, in lie and manifest contempt of our souerane lordis Actis of Parliament and Proclamatiounes foirfaidis, vpone deidlie malice confauct be him aganis Mr Thomas Douglas of Stannypeth, Minister at Balmirrieno, and haifing forget a quarrell aganis him, for the revenge of certane injurious speiches, allegit gevin be the said Mr Thomas Douglas to the said Mr Robert Williamfoun, his maister, vpoun the xxj day of Junij instant, he, vpone the xxij day of the said moneth of Junij, preparit to him selff ane grit foure-nuikit³ battoun, of aik, of purpois to haif fellit the said Mr Thomas Douglas thair: Lyk as the said Walter fet vpone him, behind his bak, vpone the hie streit of the burch of Edinburghe, in the tyme of the said flair, a lytill beneth the Stinkand-style,⁴ the Lordis of Secreit Counfall being within the said burch, and haifing sittin at Counfall in the Tolbut of the said burch, nocht passand ane half hour befoir the violence and invasioun following; and thair, maist schamefullie, barbaruslie and crewallie, without regaird of the person of ane Minister, and haifing never spokin with him ane word of befoir, invaidit him for his slauchter with the said batoun, strak him thairwith tua straikis vpone the heid, behind the richt lug,⁵ and hurt and woundit him thairwith, to the effusion of his bluid in grit quantitie; vpone set purpois, persuasiounne,⁶ precogitat malice and foirthocht felony. And efter the committing of the said crewall and schamefull Invasioun, and hurting of him, as said is, the said Walter fled and gat away; and thaireftir was tane and apprehendit for the said barbarus crewallie; and he hes confessit the samyn. Quhilk batouning of the said Mr Thomas, sa neir to his hienes Counfall, mereittis gritter pwneischment, nor gif⁷ he had drawin ane sword to the effect aboue specifeit, in respect of the vyle indignitie thair of: Quhairby he hes contravenit the tennour of the saidis Actis of Parliament and Proclamatioun foirfaid, and incurrit the payne of daith, quhilk aucht and sould be execute aganis him with all rigour, in exampill of vtheris, &c.

PERSEWAR.

Mr Johne Nicolfoun of Lefwaid, Aduocat, substitute to Mr Thomas Hammiltoun of Drumcairne.

VERDICT. The Assyse, be the mouth of James Lyndesay of Dowhill, chancellor, ffaund, pronuncet and declairit the said Walter Grahame to be ffylit, culpable (and) convict of the saidis crymes.

¹ Clergyman. ² Forged, feigned, simulate. ³ Four-cornered, square. ⁴ Near the Tolbooth, and almost opposite the door of Haddo's-hold, to the eastward of the late New North, or 'Little Kirk.'

⁵ Ear.

⁶ In common style, this word is usually 'provision.'

⁷ Than if.

(Aug. 12.)—Mr Williame Borthuik, Justice-depute,¹ (pronounced Sentence against the pannel,) be vertew, and at command of ane Warrant of the Lordis of his hienes Secreit Counfall, quhairof the tennour followis :

APUD EDINBURGHE, vltimo Junij 1603. The Lordis of Secreit Counfall Ordanis þe Justice and his deputis to pronunce dome vpon Walter Grahame, for þe streking of Mr Thomas Douglas, Minister, with ane batoun ; in maner following, viz. : That þe said Walter fall be scurgit fra þe Castell hill to the Neper boll, throw þis bur^t, and his richt hand to be strukin af at þe Neper boll : And pairafter, Ordanis him to be Banischet his Maiesteis haill dominiones, and onnawis to returne agane within þe samyn during his lyftyme, vnder þe pane of deid. And that he remove furth of þe saidis realmes betuix and þe last day of September nixtocum, vnder þe pane foirsaid.

(Sic subscribitur) MONTROIS CANRIUS. AL. VCHILTRIE. ELPHINGSTOUN. A. FYVIE. NEUBOTLE. J. COKBURNE. R. COKBURNE. JO. PRESTOUN. CRANSTOUNRIDDELL. QUHITTINGHAME.

SENTENCE. The Justice, be the mouthe of Walter Peirie, dempster of Court, decernit and ordanit the said Walter Grahame to be scurgit throw the bur^t of Ed^r,² &c., within tua moneth nixt following, vnder the pane foirsaid : Quhilk was gevin for dome.

Slaughter.

Jun. 30.—JOSEPH BONCLE, burges of Dunbar.

Dilatit and accusit for the Slauchter of vmq^{le} James Loche, induellar in Dunbar, committit vpoun the xxviij day of Junij instant, be the straik of ane sword in the lisk³ and the wambe.⁴

Compeirit Williame Kellie, Thesaurer of Dunbar, in name of the Proveist and bailleis thairof, and producet the letter vnderwritten ; quhairof the tennour followis.

PROVEIST and bailleis of the bur^t of Dunbar. IT is our will, and for findrie guid respectis and confiderationes moveing ws, We command 3ow, that 3e caus saille convoy, bring and present Josephe Bonkle befor our fouerane lordis Justice and his deputies, within þis bur^t of Edin^r, to vnderly the law and justice for þe slauchter of vmq^{le} James Loch, smyth, committit be him vpoun þe xxviij of Junij instant. Quhairanent þir presentis falbe 3our Warrant : And but⁵ preiudice or ony derogation to quhatsumevir 3our liberteis and privilegis of Scherefschip, disponit and grantit be his Maiestie in 3our fauoris, and contenit in 3our new Infestment, maid pairvpoun. Subscriuit with our handis, at Edinburghe, þe xxix day of Junij, 1603.

(Sic subscribitur) MONTROIS, CANRIUS. J. ELPHINGSTOUN. A. FYVIE. A. VCHILTRIE. QUHITTINGHAM. JO. PRESTOUNE. EDJELL. CRANSTOUNRIDDELL. R. COKBURNE. J. COKBURNE.

VERDICT. The Assyse, be the mouth of Patrik Nisbet in Dunbar, chancillar. fand, pronunceit and declarit the said Josephe to be flylit, culpable and convict of the Slauchter of the said vmq^{le} James Loch.

SENTENCE. To be tane to ane place befyde the mercat croce of Edinburghe.

¹ On Aug. 12, 1603.
groin or flank.

⁴ Belly.

² In terms of the above Warrant of the Privy Council.

⁵ Without.

³ The

and thair his heid to be strikin fra his body ; and all his movabill guidis to be efcheit, &c.

Treason — Forging and Uttering base Money.

ROBERT DOW *alias* MEINZEIS and Allester M^cclaren, finyth.

Dilatit ffor airt, pairt, red and counsale, and conceilling of the tressonabill fforgeing, counterfitting and outputting of fals and adulterat coinzie, sic as fyve-pound-pecis and foure-merk-pecis, quhilkis Arthour Smyth coinzeit fyve zeir fyne or thairby, in his smiddie besyde Banff: And for outing¹ of ane pairt thairof, amangis our foverane lordis liegis.

VERDICT. The Assyis, be the mouth of Williame Stalker elder, Goldfinyth, fstand them to be ffylit, culpabill and convict of the tressonabill conceling of the fforgeing, prenting and counterfitting of fals coinzie, prentit and forgeit be the said Arthour Smyth, in his smiddie beside Banff, conforme to thair Depositionis.

SENTENCE. The said Allester M^cclaren to be tane to the gallow on the Borrowmure, and thairvpoun to be hangit quhill he be deid : And all his landis, heretageis, takis, ftedingis, rowmis and possessionis, guidis and geir, coirmis, cattell, infycht pleneiffing to be forfeitit and efcheit, &c.

Continewis dome vpone Robert Dow to the morrow quhill he auise with the Counfall.²

Slaughter of the Laird of Russ's People by the Clan-Gregor, &c.

Jul. 5.—GILLIEMICHELL M^cHISCHOK, fervaund to vmq^{le} Johne Dow M^cgregour, and Nicoll M^cpharie Roy M^cgregour.

Dilatit for being [' at the ffield of the Lennox³ aganis Sir Vmphray Colquhoun : And for airt and pairt of the Slauchter of sewin fcoir perfounes,'⁴] in cunpany with the Laird of M^cgregour and his complices, at the ffeild of the Lennox, aganis Alexander Colquhoun of Lufe : And for airt and pairt of the slauchter of the said Laird of Lufe freindis, fervandis, afflisteris and pairtakeris, to the number of sevin fcoir perfones or thairby : And for reifing and herreing of the haill cuntrey, and fteilling and away-taking of ky, oxin, horfe, fcheip, gaittis and vther bestiall, to the number of aucht hundreth bestiall or thairby ; committit in the moneth of Februlare lastbypast.

VERDICT. The Assyse, be the mouth of Robert Oisteane in Edinburghe, chancellor, all in ane voice, but⁵ variance, fstand, pronuncet and declarit the saidis

¹ Uttering, putting out.

² On Jul. 5, he is ordained ' to be tane to the Castellhill of Edinburghe, and thair to be hangit quhill he be dead ; and all his moveabill guidis to be efcheit, and his lands and heritageis, gif he ony has, to be forfeitit,' &c.

³ See Notice prefixed to the Trial of Allaster M^cGregour of Glenstrae, Jan. 20, 1604.

also Apr. 28 and May 17, &c.

⁴ This sentence occurs at the first entry. See

⁵ Without.

Gillie-Mitchell M^cifchok, alias M^cgilliechallum, and Nicoll M^cfarie Roy M^cgregour to be ffylit, culpable and convict of airt and pairt of the crymes foirfaisdis.

SENTENCE. To be tane to the Castell-hill of Edinburghe, and thair to be hangit on ane gibbet quhill thay be deid ; and thair guidis to be efcheit, &c.

‘ Field of the Lennox ’ — Slaughter of the Colquhouns, &c.

Jul. 14.—JOHNE (DOW M^cANEVALICH) M^cGREGOUR, at the Kirk of Comerie.

Dilaitit for being in cumpanie with Allaister M^cgregour of Glenstra¹ and his complices, at the ffeild of the Lennox, againis the Laird of Lufe and his freindis : And airt and pairt of the Slauchteris, thiftis, robbereis committit be thame ; quhairin thair was flane vij fcoir perfonis ; committit the aucht day of Februare laft.

VERDICT. The Affyse, be the mouth of James Chalmer, burges of Edinburghe, chancellor, ffand the faid Johne Dow M^canevalich M^cgregour to be ffylit, culpable and convict of the faidis crymes.

SENTENCE. To be tane to the Castel-hill of Edinburghe, and thair his heid to be strikin from his body ; and all his movabill guidis to be efcheit, &c.

Slaughter — Unmerciful Oppression — Shooting ‘ Hagbuttis,’ &c. Cattle and Sheep Stealing, &c.

Jul. 19.—GEORGE TRUMBILL, of Belfis.

Dilatit, accufit and perfewit of the crymes *refpectiue* following, viz.

FOR airt and pairt of the Slauchter of vmq^{le} Johne Hammiltoun, callit of Cumnock ; committit the xxij day of Januare, I^m.V^c. threfcoir nyntene yeris. ITEM, of airt and pairt of the Slauchter of vmq^{le} Williame Trumbill, fone lauchfull to vmq^{le} Walter Trumbill of Raflat ; committit in the moneth of Apryle, I^m.Vj^c. yeris. ITEM, for Vfurpatioun of our fouerane lordis authoritie, in taking of Adame Trumbill, fumtyme fervand to the faid vmq^{le} Walter Trumbill of Raflat, he being his hienes frie fubject, and binding him with fetteris, and hinging him be the feit and fchouderis, ouer ane balk, for the fpace of xij dayis, quhairthrow his feit rottit fra him ; without Commiffioun gevin him to that effect. ITEM, for contravening of our fouerane lordis Actis of Parliament, in beiring and weiring of hagbutis, dagis and piftolettis ; and in fchuiting of Walter Trumbill, younger of Raflat, betuix the toun of Jedburgh and the place of Belfis, in the airme and thie ; committit in anno I^m.Vj^c. and tua yeris. ITEM for the thiftious Steilling of four nolt fra Johnne Donaldfoune, in Melrois ; committit thre yeir fyne or thairby. ITEM, for airt and pairt of the thiftious Steilling of fax ky and oxin, xx fcheip, tua horfis, with the infycht pleneiffing and eidentis pertening to David Riddell, in St Bofuellis ; committit in the moneth of . . . I^m.V^c.lxxxxviiiij yeris, or thairby. ITEM, for the thiftious Steilling of xvj nolt, pertening to the Laird of Bemersfyde ; committit in anno I^m.V^c.lxxxviiij yeris. ITEM, for the thiftious Steilling of tuentie nolt, ane yeir fyne or thairby, pertening to the Lady Newtoun. ITEM, for

¹ In the Verdict of the Assise, it is said to have been in company with ‘ the Laird of McGregour ; ’ so that Allaster of Glenstra was the Chief of this Clan, either by right of blood, or Chieftain for the time, by election, as was usual among the Clans. See Jan. 20, 1604.

the thiftious Steilling furth of the landis of Belfis, in the moneth of . . . I^m.Vj^e. and ane yeiris of fyve fcheip, pertening to ane fervand of George Davidfones. ITEM, for the thiftious Steilling and away-taking of ane meir, pertening to George Wilfoune in Langnewtoune, furth of his duelling hous in Langnewtoune; committit ane yeir fyne or thairby. ITEM, for a commone briggane¹ and notorious cownone theif, reffet of thift, outputing and inputing of thift.

PERSEWARIS, Iffobell Trumbill, as dochter (to Walter) and fifter (to Williame Trumbill); George Rutherford, as kinsman; Mr Johne Nicolfoune, substitute for our fouerane lordis aduocat.

PRELOQUUTOIRIS for the pannell, Mr Johne Russell, Mr Thomas Craig, Mr Williame Douglas, David Ramsay.

It is allegit be the pannell, that na proces aucht to be grantit vpone the Dittay, vnto the tyme he be fummond vpone xv dayis wairning, in respect the deidis contenit in the Dittay is done xxiiij yeir fyne.—It is anſwerit be the Aduocat, that he was denuncet rebell and put to the horne for ane of the ſlauchteris contenit in the Dittay, viz. ffor the ſlauchter of v^mq^{le} Williame Trumbill, and ane Commiſſiounne grantit be the Kingis Maieſtie and Counfall for taking of him; be vertew quhairof he was takin and apprehendit and preſentit to the Counſale, vpone the fyft day of July; att the quhilk tyme, in preſens of the perſewer and defender, than preſent, this day (being that day xv dayis) was affignit to the perſewer to perſew him for that cryme and all vther crymes could be laid to his charge: And thairfoir, thair being xv dayis grantit to the Counſell to deliberat vpon his defence, thair aucht to be na forder citationne grantit.—To the quhilk it is anſwerit be the pannell, concerning the Hoirning, he is relaxt. *Secundo*, as to the Commiſſiounne, na Commiſſiounne can be grantit to preiudge him of his lauchfull deſenſſis, *parte non citata*. As to the laſt, he gat na coppie of the Dittay, and thairfoir man be fummond on xv dayis wairning.

As for the ſlauchter of v^mq^{le} Williame Trumbill, ſayis he was ſlane be him in his awin deſenſe, he being aſſageit within his awin hous. As to the ſlauchter of v^mq^{le} Johne Hammiltoune, denyis, and offeris him to the tryell of ane Aſſyſe. As to the ſlauchter of Walter of Raflat, ſayis he was ſlane at the horne, and producet the hoirning for verifeing thairof, raiſit at the inſtance of Andro Commendater of Jedburgh, quhair the ſaid Walter, for nocht removeing fra the landis of Raflat, and half ane quarter of the toun and landis of Belfis; quhilkis letteris ar of the dait the xx day of Apryle 1581, and of our fouerane lordis regne the xiiij yeire; denuncet the xij day of Julij, anno foirſaid.—It is alleget be the Aduocat, to the laſt pairt, that albeit he was at the horne, the pannell aucht nocht to vſurpe the Kingis auctorite vpoune him, to ſlay ony man at his awin hand.

THE JUSTICE continewis Interloquitour to the morne.

Jul. 20.—THE JUSTICE Remittis the hail poyntis of Dittay, except for the ſlauchter of v^mq^{le} Walter Trumbill of Raflat, to ane Aſſyſe.

It is allegit aganis James Waddell, burges of Jedburgh, that he can nocht pas

¹ Robber; Fr. *brigand*.

vpone this Affyse, becaus thair is deidlie feid standand betuix the haill name of Trumbill, on the ane pairt, and the Laird of Pharnherst, the haill Keris, and the haill inhabitantis of the toune of Jedburghe, on the vther pairt, for the Slauchter of Thomas Ker, brother to the (Laird of) Pharnherst.

The Aduccat protestis for Wilfull errour, in caice that thay acquit George Trumbill of the slauchter of vmq^{le} Williame Trumbill, becaus he confest the committing of the Slauchter out of his hous, he being affageit, and allegeit in his defence.

The Aduocat, for instructing of the Dittay, producet ane Testimoniall, beiring the pannell to be excommunicat for Slauchteris, Murthouris, Incestis and Adultereis, &c.; subfcryuit be Mr George Douglas, clerk of the Presbiterie of Jedburghe.

VERDICT. The Affyse, be the mouth of Walter Eleise, in Danieltown, chancellor (be pluralitie of voittis), ffind, pronunceit and declairit the said George Trumbill to be flylit, culpabill and convict of beiring, weiring and schuiting with hagbuttis and pistolettis, contrair the tennour of our souerane lordis Actis of Parliament; committit betuix the toune of Jedburghe and the place of Belfis, in anno I^m.Vj^c. and tua yeiris: And to be Clene, innocent and acquit of the haill remanent crymes aboue specifeit, mentionet in the said Dittay; and speciallie, of the slauchter of the said vmq^{le} Williame Trumbill, becaus the samyn was done in his awin defens.

Quhairvpoun the said George Trumbill askit instrumentis.

(Aug. 18.)—SENTENCE. The Justice decernit and ordanit the said George Trumbill to be tane ‘to the mercat-croce of Edinburghe, and thair his richt hand to be strukin frome his airme, as convict of the said cryme; quhilk wes gevin for dome.’¹

Sorcery — Charming — Abusing the People.

Jul. 21.—JAMES REID, sumtyme serveand to George Anderfoun in Muffilbur^t.

Dilatit, accusit and persewit, be Dittay, of the crymes following, to wit,

FOR ane cownone Sorcerer, charmer and abuser of Godis peopill, be geving him selff out to haill all kynd of seiknes: Quhilk craft he lernit fra the Devill, his maister, in Bynnie-craigis and Corstorphin-craigis, quhair he met with him and consultit with him to lerne the said craft; quha gaif him thrie penneis, at ane tyme, and a peice creische² out of his bag, at ane vther tyme; he haifing appeirit to the said James dyuerse tymes, quhyles³ in the liknes of a man, quhyles in the liknes of a hors: with quhome he lykwayis dyuerse tymes consultit sen his first meiting, quhilk is threttene yeir fyne or thairby; quhilk lykwayis

¹ See Aug. 23, 1602.

² Grease, fat.

³ Sometimes, occasionally.

lernit him to tak fouthe-rymand-watter¹ to cuir the saidis diseiffis. ITEM, for cureing of Sara Borthuik, be his Sorcerie and devilrie, quha was grevouffle trubillit and diseasit, be bringing of fouth-rymand-watter fra the Schyreff-brayis-wall, and casting a certane quantitie of salt and quheit about hir bed; be the quhilk cuir scho was hailit. ITEM, forsamkill as he, be the speciall persuasounne of Jonet Cryftie, dochter to Johne Cryftie at Cryftiesounis mylne, and his mother, consultit with the Devill, for distructionⁿ of David Libbertoun, baxter, burges of Edinburghe, his spous, thair coirne and guidis; quha causit him tak a peice raw flefche, quhairvpone he maid nyne nekkis,² and inchantit the samyn, quhilk he delynerit to the said Jonet, and causit hir lay ane pairt thair of vnder the mylne dur, and the rest vnder the stabill dur, for distructione of his hors and cattell. And als, inchantit to him nyne stanis, quhilk the said James cuist vpone the said David Libbertones landis, for distructionne of his coirnes. Lyk as, the said James and the saidis Jonet Cryftie and hir mother infformet³ and maid ane pictour of walx, quhilk the Devill inchantit; and he and the wemen turnit the pictour at ane ffyre, in the said Johnne Cryftiesones hous, for distructionn of the said David Libbertones selff. ITEM, for cureing of the said Johnne Cryftie, being diseasit of a fwalling, in putting of thre silk poyntis,⁴ in his devilisch maner, about his waist, quhilk remanit ten oulkis⁵ with him; and went away fra the said Johnne, be quhat way he knew nocht.

VERDICT. The Assyse, be the mouth of Johne Howie, merchand, chancellor (all in one voce), stand, pronuncet and declarit the said James Reid to be ffylet, culpabill and convict of the haill crymes aboue specifseit.

SENTENCE. To be tane to the Castel-hill of Edinburghe, and thair to be wirreit⁶ at ane staik; and his body to be brunt in assis:⁷ And all his moveabill guidis to be escheit, and inbrocht to his hienes vse, as convict of the saidis crymes.

Murder — Robbery.

Jul. 27.—THOMAS HORSEBURGH, burges of Peiblis.

Dilaitit and accusit of the Murthour and Slauchter of vinq^{le} Williame Chisholme in Peibillis, with his awin quhinger, vnder silence and clud of nycht: And als, of the thiftious steilling of ten sax li. peces,⁸ and tuentie merkis in quhyte siluer, pertening to the said vinq^{le} Williame, vnder the said Williames bed-heid; committit in the moneth of Marche lastbypast: And siclyk, for the thiftious steilling of tuentie tua li.⁹ fra his guid-mother,¹⁰ committit nyne yeir syne, or thairby.

¹ This superstition still obtains, in many remote places of Scotland; where the virtues of such water are firmly believed in. ² Nicks, notches. ³ Formed, constructed. ⁴ Laces, ties. ⁵ Weeks.

⁶ Strangled. ⁷ The 21 of Julij, James Reid brunt, for consulting and using with Sathan and Witches; and quha was notably knawin to be ane counsellor with Witches.—*Birrel's Diary*.

⁸ Ten £6 pieces. ⁹ £22. ¹⁰ Mother-in-law.

VERDICT. The Assyse, all in ane voce, be the mouth of Michell Hunter of Polmwid, chanceller, stand, pronuncet and declairit the said Thomas to be flylet, culpabill and convict of the saidis crymes.

SENTENCE. To be tane to the Castell-hill of Edinburghe, and thair to be hangit on ane gibbett quhill he be deid ; and thaireftir his heid and richt hand to be strukin fra his body ; and the heid to be set vpon ane prik vpoun the steppill-heid of Peiblis ; and his richt hand to be put on the Eist-pairt thair of : And all his moveabill guidis to be efcheit, &c.

Usurpation of King's Authority—Hurting and Wounding.

Jul. 29.—ALEXANDER SEYTOUN, in Boigin-Johne.

Dilatit for the taking and apprehending of Mr Johne Cardno, convoying him to his hous in Boigin-Johne, and detening him captiue and prisoner, be the space of xxiiij houris ; and hurting of him with ane rapper¹ in the body, and vsurpation of our souerane lordis authoritie vpoun him, in taking of the said Mr Johne ; committit in Nouember lastbypast.

The pannell askis instrumentis of his comperance on pannell, and protestis for releif of his cautioner ; and als, he offerris him reddie to vnderly the law for the said cryme, disassenting till all continewatioune.

The Justice continewis to the Justice-air of ‘ Abirdene, tercio Itineris, (vel super premonitione) xv dierum.’ James Chene of Straloch, cautioner.

Slaughter.

Jul. 30.—GEORGE HARRETT of the Coittis.

Dilatit for the Slauchter of vni^{te} Williame Dowglas, in Muffilburgh, feruitoure to Williame Erll of Angus, lord Douglas, &c. ; committit in the moneth of Julij, the yeir of God Im.Vj^c. and twa yeiris.

Marioun Wilfoun, the relict, produceit our souerane lordis Letteris, dewlie execute and indorsat, &c. Thomas Harrett in Lintoune, his cautioner, vnlawit and amerciast in the panis contenit in the Actis of Parliament, viz. in the payne of ane hundreth merkis ; and als adiudget the said George Harrett to be denunceit our souerane lordis rebell, and putt to the horne ; and all his movable guidis ordanit to be efcheit.

Murder.

Jul. 30.—MARIOUN WARDLAW, spous to Johne Kennedie, gantillet maker, burges of Edinburghe.

Dilaitit of airt, pairt, red and counfall of the Murthour committit be Williame Boirthuik, tutour of Boirthuik, Johne Boirthuik his brother, and vtheris

¹ Rapier.

thair complices, in cuning to James Frammis duelling-hous in the Cannogait, vnder scyence of nycht, and strykeing of him nyne straikis in the body and heid, to the effusioun of his body ; and levand him for deid.

PERSEWAR, James Framme, gantillet-maker in Edinburghe.

Continued to the air of Edinburghe, ‘tercio Itineris (vel super premonitione) xv dierum.’

‘Field of the Lennox’—Slaughter of Colquhouns— Stouthreif, &c.

Aug. 12.—DUGALL M’GREGOUR and Neill M’Gregour Pudrache.¹

Dilatit and accusit of the crymes following ; to wit, the said *Neill M’gregour* of airt and pairt of the Slauchter of vmq^{le} Patrik Layng and of vmq^{le} Johne Reid, wobster, servandis to the Laird of Luse ; committit in December lastwas : AND siclyke, of airt and pairt of the thiftious Steilling of tuelf scoir guidis furth of the Laird of Lusses boundis, in the Lennox ;² committit the tyme foir-said. AND siclyk, the said *Dougall M’gregour*, of airt and pairt of the Slauchter of foure men, servandis to the Laird of Luse, in the lait ffeild of the Lennox ;³ and being in companie with the Laird of M’gregour and his companie at the same feild ; and airt and pairt of the Slauchteris, reiffis, thiftis and foirningis committit that day, in the moneth of Februlare last.

VERDICT. The Assyse, be the mouth of James Broun, burges of Dumfreis, chancellor, stand, pronuncet and declairit the saidis Neill M’Gregour Pudrache, and the said Dougall M’gregour to be fylit, culpabill and convict of the haill crymes aboue specifeit.

SENTENCE. Thairfoir the said Justice-depute, be the mouth of Walter Peirie, dempster, decernit and ordanit the saidis Neill and Dougall M’gregour to be tane to the Burrow-mure of Edinburghe, and thair, vpone ane gibbet, to be hangit quhill thay be deid ; and all thair moveabill guidis to be escheit, &c.

Incest—Adultery—Theft, &c.

Aug. 23.—GEORGE TRUMBILL, in Belfis.⁴

Dilaitit, accusit and persewit, be DITTAY, of the crymes following, viz.

FORSAMEKILL as it is expresse provydit, statute and ordanit be our souerane lordis Actis of Parliament, that all notorious and manifest Adultereris and Incestuous persones sould die the daithe, and thair haill moveabill guidis to be escheit to our souerane lordis vse ; and all sic persones quha ar excommunicat for Adulterie, ar be Act of Parliament estemit for notorious and manifest adultereris ; as the saidis Actis at mair lenth beiris : And trew it is, that the said George Trumbill lies in the monethis of Januare, Februlare, Marche, Apryle, Maij, Junij, Julij, August, September, October, November and December, in the yeiris of God I^m.V^c.lxxxviiij, lxxxix, 1600, 1601, and I^m.V^c. and tua yeiris ; at the leist in ane or vther of the saidis monethis and yeiris, abuset his body in the filthie cryme of Incest and

¹ Pudrache signifies of the country or district of Balquhiddier.

² See Mar. 20, 1603, &c.

³ See Jan. 20,

⁴ See Jul. 9, 1603, and Aug. 18, when he had his right hand struck off for shooting pistols, &c.

Adulterie with Marioun Trumbill, spous to Jok Trumbill in Belfis, his brother sones wyfe; ffor the quhilk fact he is excommunicat within the Presbiterie of Jedburcht; as the sentence of excommunicatione proportis. ITEM, for the thifteous steilling of ane gray horse furth of the landis of Raflat, pertening to vmq^{le} Walter Trumbill of Raflat; committit in the moneth of September, 1577. ITEM, for the steilling of xx oxin and ky furth of the landis of Raflat, fra the said vmq^{le} Walter; committit in the moneth of September lxxix yeiris. ITEM, for the thiftious steilling and reifing of foure horse, fra foure mylleris of Jedburcht; committit thre yeir syne, or thairby. ITEM, for the steilling of ane naig fra Walter Trumbill now of Raflat.

PERSEWERIS.

Sir Thomas Hammiltoun of Monkland, kny^t, aduocat to our souerane lord; George Rutherford.

PRELOCUTORIS for the pannel, Mr Johne Russell, Mr William Douglas.

It is allegit be George Trumbill, that he sould nocht be putt to ane Assyis for the crymes of Thift in the Dittay; becaus, within this moneth, he wes chargeit befor your lordships of findrie particuler poyntis of thift and commoun thift; comprehending all pointis of thift, except itt wer for pointis of thift committit fen his clangeing. The Aduocat alledgis it is nocht relevant.

THE JUSTICE ordanis George Trumbill to be putt to the Assyse, for all crymes contenit in the Dittay, except sic as he is alreddie clangeit of.

The Aduocat takis instrumentis of the sivering of the Inqueist; and of production of the Presbiteries Testimoniall, testifeing George Trumbill to be excommunicat for Incest and Adulterie, contenit in the Dittay: And protestis Wilfull Errour, in caice thay acquit. And further, produceis Letteris of Hoirning, to verifie the vther foure poyntis of Dittay, and of his lang remaning vurelaxit; and protestit for Wilfull Errour, in caice thay acquit, in respect fairfaid.—The pannel takis instrumentis of Halyburtoun of Moreislaw comperance, and sivering of the twa pointis of the Dittay, viz. of the mylleris naigis, and Watt Trumbillis naig. The Aduocat askis instrument of the sivering of the Dittay, be the Guiduan of Morislaw.

VERDICT. The Assise, having ‘be pluralitie of voitis’ chosen William Cockburne of that Ilk chancellor, thay stand, pronuncet and declairit the said George to be ffylet, culpabill and convict of the haill crymes *respectiue* abone writtin.

SENTENCE. And thairfoir the said Justice-depute, be the mouth of Robert Scott, dempster of Court, decernit and ordanit the said George to be tane to the Castell-hill of Edinburgh, and to be hangit on ane gibbett quhill he be deid; and his haill landis, heritageis, tenementis, annuelrentis, possessionis, coirnis, cattell, infycht pleniffing, guidis and geir, to be forfaltit and escheit to our souerane lordis vse, as convict of the saidis crymes.

Slaughter — Woughing Oxen — Stouthreis, &c.

Sep. 23.—JOHNE JOHNNSTOUN, callit of Loch-hous.

Dilatit, accuset and persewit be Sir Thomas Hammiltoun of Monkland, knycht,

aduocat to our fouerane lord, ffor airt and pairt of the slauchter of vmq^{le} Johnne Cuninghame, fervand to the Erle of Glencairne ; committit in the yeir of God I^m.V^c.lxxxxvj yeiris, or thairby, within the burch of Edinburgh. ITEM, for airt and pairt of the slauchter of vmq^{le} Gilbert Roriefoune. ITEM, for airt and pairt of the hoching¹ of Robert Cuninghames oxin. ITEM, for airt and pairt of the maisterfull and stouthfull reveing fra James Lichtoun, Johnne Kello, Johnne Byres, George Cuninghame, merchandis burgeffis of Edinburgh, . . . Hunter in Glesgow, and Williame Walker at Bellis-mylne, of thair purffis and money being thairin, estimat to thre thousand (and viij^c) merkis ; and away-taking of thair nagis fra thame ; committit in the moneth of Julij 1602 yeiris, at the Rowne-tre-barne, betuix Air and Wigtoune.

ASSISA.

Charles Campbell of Horfeleuch,
Charles Campbell of Skeringtoun,

George Campbell of Gelt,
Williame Campbell of Walwoid.²

VERDICT. The Assyse all in ane voce, be the mouth of the said Charles Campbell of Horfeleuch, chancellor, ffand, pronuncet and declairit the said Johnne Johnnestoun of Loch-hous, accoirding to his awin Confessioun, maid in judgement, and Depositiones subscryuit with his hand, to be ffylit, culpabill and convict of the haill poyntis of Dittay aboue reherfit.

SENTENCE. To be tane to ane scaffald at the mercat-croce of Edinburgh, and thair his heid to be strukin fra his body. And all his moveabill guidis to be escheit, &c.

[*Mr Andrew Kneilland, Justice-Depute.*³]

Dict continued owing to Plague in Edinburgh.

Nov. 8.—JOHNNE COLQUHOUN, younger of Campstradden,⁴ Dougall M'Farlen, and Johnne M'Conell V'neill M'Farlane and others.

Compeirit Antoun Whyte, wryter, and producet ane delyuerance grantit be the lordis of Secreit Counfall, subscryuit be my Lord Chancellor, &c. as follows.

MY LORDIS OF COUNSALL, vnto your lordschipis humlie menis and schawis we your seruitouris, Sir Johnne Murray of Tulliebarden, kny^t, and James Hadden of Glennageis : That quhair, we and ather of ws haif purchest lettres, quhairwith we haif caufet charge *Johnne Colquhoun, younger of Campstradden*, Dougall M'Farlane, Johnne M'Conell V'neill Makfarlane, and certane vtheris perfonis thair complices, specifeit in the saidis letteris direct thairvpoune, to find cautionn, that thai fall compeir befor our fouerane lordis Justice and his deputis within the Tolbuthe of Edinburgh, the aucht day of November instant, to vnderly the law for certane crymes mentionet in the saidis letteris : At the raising of the quhilkis letteris, we and ather of ws ffand cautionn actit in the buikis of Adiornall, for repointing of the saidis letteris, deulie execeute and indorfate, at the day foirsaid, vnder the panes contenit in the Actis of Parliament. And be resson of the suspitioune and danger of the plaige of pestilence

¹ Hamstringing. ² James Johnneston of Lochwood beheidit at the crosse of Edinburgh, for oppression, slaughter, and raising of fyre and vthir maney crymes.—*Birrel*. ³ The rest of the Assise composed of merchants. ⁴ This Judge is first noticed, Nov. 3, 1603. ⁵ See p. 432, where he is said to have been killed, 7th February preceding !

within the said burcht of Edinburgh, quhilk hes intervenit sen the raising of the saidis letteris, we nor the personis summond on the Assyse of the persones dilaitit, may nocht guidlie repair thither, for feir of the said plaigue. Quhairthrow, necessar it is that the day foirsaid be prorogat and continewit to ane certane vther competent day thairefter, that (gif it pleis God to stay the said plaigue) we may faiflie resoirt and repair to the said burcht of Edinburgh, to the effect aboue specifeit. Heirfoir, we befeik your lordschipis, that ye will give command to our souerane lordis Justice, Justice-clark and thair deputis, to continew the day foirsaid, to ane certane vther lauchfull competent day thaireftir; and to wairne the partie and the persones summond vpone the said Assyse thairto; quhairthrow we may the mair faiflie repair to the said burcht to the effect aboue writtin: Quhairanent it will pleis your lordschipis to dispenſe with us, and all panes and vnlawis, quhairinto we or ather of ws, or ony of the persones summond vpone the said Assyse, may ony maner of way be vnlawit or adiudget, for our non-compeirance, at the said viij day of November instant: And your lordschipis anſuer humlie we befeik. [FIAT UT PETITUR.] (Sic subscribitur) MONTROISS, CANRIUS. M. R. YOUNG.

According to the quhilk Warrant, the Justice continewit the said dyet to the said xxij day of December nixtocum; and ordanit the parteis to be summond, and ane Assyse also to be summond to the said day; and the cautioner to stand obleift for repoirting of the saidis letteris, deulie execute and indorfate, agane the said day.

Slaughter.

Nov. 17.—JAMES KYNNAIRD in Inchtur, Williame Haitlie in Balgay, and Williame Kynnaird, sone to the Laird of Kynnaird.

Patrik Bruce of Fyngask and Johnne Kynnaird, fear of that Ilk, amerciati in the pane of ane hundreth merkis, for ather of the saidis James, &c. for nocht entrie of thame to haif vnderlyne the law, for airt and pairt of the felloun and crewall Slauchter of vmq^{le} Johnne Scherp, seruitour to the Laird of Ruthven; committit vpone the first day of July lastbypast, vpone set purpois, prouisioun and foirthocht felony. And James Kynnaird, &c. to be denuncet rebellis, and put to the horne, &c.

Slaughter.

Nov. 23.—JAMES CUMING, fear of Alter, Johne Cuming, his seruand.

Dilaitit of airt and pairt of the Slauchter of vmq^{le} Thomas Hay of Edinvaill; committit the xx day of July lastbypast, betuix the place of Alter and the town¹ of Edinvaill, vpoun sett purpois, prouisiounne and foirthocht felony.

Williame Hay, as brother, and Robert Hay, as sone, to vmq^{le} Thomas Hay, produced the letteris, dewlie execute, &c.—Alexander Rychardfoun, Minister of Doleſe, declarit vpoun his grit aith, tane vpoun ane buik, that the said James Cuming wes heavelie diseisit with ane flux of natour, and ane flux of his body, and that he wes subiect to the said seiknes: And Mr Alexander Cuming offered to prove that ‘he may nocht travell,’ &c.—Williame Cuming, fear of Ernſyde,

¹ Farm-steading.

as cautioner. was vnlawit for non-entrie of the said James Cuming, in the pane of ane thousand mark, and for nocht entrie of Johne Cuming, in the pane of ane hundreth merks; and they ordanit to be denunceit, &c.

Nov. 24.—Letters of Horning given in by Robert Hay, seruitour to Frances Erle of Erroll, to be registrate against the pannell, with executions and denouciatiounis, &c.

[*CURIA tenta per Archibaldum Ergadie Comitem, Justiciarum Generalem et Magistrum Willelmum Hairt ejus deputatum principalem.*]

Treason — Hamesucken — Oppression — Stouthreis, &c.

Jan. 12, 1604.—GEORGE MELDRUM, younger of Dumbrek.

Dilatit, accuset and persewit be Sir Thomas Hammiltoun of Monkland, aduocat to our souerane lord for his hienes entreis, of the crymes following, to witt.

FORSAMEKILL as the said George, haifing consait ane deidlie feid, rancor and malice aganis Andro Meldrum, his brother, he, accompaneit with dyuerse vtheris his complices and servandis, to the number of ten perones, or thairby, all bodin in feir of weir,¹ with hagbutis, dagis and pistolettis, expresse prohibeit to be borne, worn, vsed or schot with, be our souerane lordis Actis of Parliament, in the moneth of or thairby, the yeir of God Im.Vc. fourfcoir nyntene yeiris, being four yeir syne, or thairby, come to the Mylnetoun of Dumbrek, quhair the said Andro was, in sober and quyet maner for the tyme, &c.; and thair set vpon him, and crewallie inuidit him for his Slauchter, and hurt and woundit him in his . . . hand, schoulder and face, to the effusioune of his bluid in greit quantitie: And thaireftir treffonabillie tuik the said Andro captiue and prissoner, had and convoyit him to the place of Dumbrek, quhair the said George detenit him as captiue, be the space of aucht oulkis, or thairby, in strait firmance and captiuitie; and thaireftir transportit him to the place of Ernefyde, quhair the said George and his servandis keipit the said Andro in strait firmance, be the space of fyftene or tuentie dayis, quhill he escaipit fra thame perforce: Vsurpand thairby our souerane lordis auctoritie vpon him, in taking of the said Andro, his hienes frie lege man, but² Commissioun, and detening him in captiuitie, be the space foirsaid; committing thairby manifest Treffone: AND als, for contravening the tennour of the Actis of Parliament, in beiring, weiring and vseing of the saidis hagbuttis and pistolettis. ITEM, fforamekill as the said George, haifing consauet ane deidlie feid, rancour and malice aganis Andro Meldrum of Achquharteis, laitlie, in the monethis of September or October, the yeir of God Im.Vjc. yeiris, being accompaneit with Patrik Scheill and Alexander Meldrum, his servandis, bodin in feir of weir, with hagbuttis and pistolettis, contrair the tennour of the Actis of Parliament, come be way of Hamesukkin to the place of Achquharteis, vnder silence and clud of nycht, about foure houris in the moirning, befoir day; and thair, the said George darnit³ him selff and his servandis in ane out-hous, belonging to the said Andro, neir to the said place, quhair he remanit quyet, quhill about ellevin houris of the day, that the said Andro Meldrum come furth to ouersie his awin turnes,⁴ and thair set vpon the said Andro Meldrum, and treffonabillie pat violent handis in his persone, tuik him captiue and prissoner, and convoyit him away with him as ane malefactour, fra his said duelling-hous, and brocht him south ower to Andro Fyfes hous, in the Burrow-mure of Edinburgh, besyde Merchinstoune; quhair the said George detenit him captiue, be the space of thre or foure dayis thairefter, quhill the said Andro ('*eschewit*,' or '*escaipit*'⁵) furth of the said hous, by⁶ his knowledge and aganis

¹ Arrayed in warlike manner.

² Without.

³ Hid, concealed.

⁴ Concerns, business, affairs.

⁵ Until the said Andrew escaped. A word is omitted in the Record.

⁶ Beside, without or contrary to his knowledge, unknown to him.

his will : Vfurpand thairthrow our fouerane lordis authoritie vpone him, in taking and keiping captiue of the said Andro Meldrum of Acquhartis, his hienes frie liege man, but¹ commissioun or auctoritie, and committing thairby manifest Treffone : AND als, for contravening of our fouerane lordis Actis of Parliament, in beiring and weiring of hagbutis and pistolettis. ITEM, fforamekill as the said George, haifing confauet ane deidlie feid, rancour and malice aganis Mr Alexander Gibfone, ane of the Clerkis of our fouerane lordis Counsell and Sessionne, he, accompaneit with Nicoll Jardane, Robert Jardane, Johnne Johnstoun, callit *Swyne-fute*, Johnne Ker, sone to the Tutour of Gradane, and Alexander Bartilmo, with tua fute-boyis, ane company of cowmoun and notorious thevis, brigandis and murderouris, all bodin in feir of weir, with fuordis, hagbutis and pistolettis, expresse prohibeit to be borne or worue, as said is, laithie, in the moneth of October or September, the yeir of God, I^m. fax hundreth and ane yeiris, being adverteit of the said Mr Alexanderis dyett, be ane fellow callit Craik, the said George Meldrumis awin man, quhome he send to espy the said Mr Alexanderis dyet within the Citie of St Androis ; at the quhilk tyme, he fet vpone the said Mr Alexander Gibfone, Mr Alexander Levingstoun, aduocat, and Robert Guthrie, seruant to the said Mr Alexander Gibfone, within the boundis of the scherefdom of Fyffe, besyde the Watter-fyde of Dundie, quhair thay war in sober and quyet maner rydand for the tyme, dreidand na harme, iniurie, or persute of ony persones, bot to haif leuit vnder Godis peax and our fouerane lordis : and thair crewallie Invaiddit thame for thair Slauchteris, and compellit thame to rander thame sellis to the said George and his compliceis foirfaidis ; and treffonabillie pat violent handis in thair persones, tuik thame captiues and prissoneris, had and convoyit thame away with him out of the way, and besyde Couper-in Fyfe, (he being ane landit gentilman,) treffonabillie, be way of maisterful Stouthreif, rest fra thame thair purffis, with certane gold and siluer being thairin, extending to the quantetie of thre hundreth merkis or thairby ; and thaireftir convoyit thame to the toun of Kinghorne, quhair he demittit² the saidis Mr Alexander Levingstoun and Robert Guthrie : And thairfra convoyit the said Alexander Gibfone, and brocht him with thame sellis ouer the fferrie of Kinghorne to Leyth, and convoyit him captiue to Williame Kayis house in Leyth, quhair Serjand Moffet come to thame ; and thairfra the said George maist treffonabillie convoyit the said Mr Alexander Gibfone captiue by³ the Palice zet of Halyrudhous, throw ane gritt pairt of Louthiane and throw Tueddell, to the toun of Melrois ; and befor thair entrie within the said toun, the said George, with his complices, devydit the gold that was in the tua purffis amangis thame, quhair of ilk ane of thame gat tuentie merkis, or thairby, for thair partis ; and fra the said toun of Melrois thay convoyit the said Mr Alexander captiue vnto Ingland, to George Ratleiffis house ; quhair thai detenit him captiue and prissoner be the space of aucht dayis or thairby : Vfurpand thairby our fouerane lordis auctoritie vpone thame, in taking the saidis persones, thay being his Maiesteis frie leigis ; haifing na power nor Commissioun to that effect ; in manifest contempt of his Maiestie : committand thairby manifest Treffone : LYK AS, the said George, being ane landit Gentilman, committit maist treffonabill Thift and Stouthreif, in reiffing of thair purffis, and gold foirfaid being thairin ; AND siclyk, for beiring and weiring of hagbutis and pistolettis, contrair the tennour of the Actis of Parliament. Off the quhilkis crymes *respectiue* aboue writin, the said George was speciall actour ; at the leift, airt and pairt thairof. AND last, the said George being indytit and accusit, fforamekill as he, accompaneit with Johnne Meldrum, his brother, and dyuerse vtheris, his complices, laithie, in the moneth of November lastbypast, being bodin in feir of weir, with hagbutis, dagis and pistolettis, prohibeit to be borne or worne, as said is, be our fouerane lordis Actis of Parliament and Secreit Counfall, come to the place of Dumbrek, pertening heritable, and being in the lauchfull possession of Andro Meldrum, his brother, keipit be him and his seruandis, and tuik the samyn place perforce, and held and detenit the samyn be the space of sevin oulkis or thairby.⁴

¹ Without.² Suffered to go, dismissed.³ Past.⁴ This latter part of the Dittay is thus shortly given in another place of the Record : ‘ And for taking of the place of Dumbrek, and keiping of the samyn aganis the Kingis gaird, quha, be vertew of ane Commissioun, was commanded to pas to the said hous and charge him to rander the samyn ; quhilk he dissobeyit.

ASSISA.

James Tennent of Kairnes,	Williame Foullertoun of Arde,	Jo. Creichtoune, Y ^r of Strathurd,
J ⁿ Kynneir, younger of that Ilk,	Alex ^r Falconer of Halkertoun,	Da. Haddene, tutour of Glennageis,
Mr Patrik Balfour of Pitcullo,	Johnne Veitche of Dawik,	Thomas Ker of Caveris,
George Murray of Brochtoune,	Williame Burnet of the Bairnes,	Geo. Hereis of Kirktone of Eshe,
Archibald Ogilvie of Keillour,	Aulay M'caulay of Ardincapell,	Johnne Boyle of Kelburne.

For verificatioun quhairof, the said Sir Thomas Hammiltoun producet the said George Depositiones, subscryuit with his hand, beiring his Confessioun of the haill crymes aboue specifeit. The Advocat askit instrumentis, (1.) Of the sweiring of the Affyis: (2.) That George Meldrum declairis he becumis in his Maiefteis will, for the taking and hurting of his brother, and for the taking of the Guidman of Acquhariteis. (3.) Of George Meldrumis cuming in will, for the offence done to Mr Alexander Gibsounne and his company. (4.) Of the reiding of the pannellis Depositiones to the Affyse judicillie: And (5.) In respect thair-of, and of his Confessioun thair-of, in judgement, and becuming in will for the haill Dittay, protestis for Wilfull Errour, in cais thai acquit.

VERDICT. The Affyse, be the mouth of the said Alexander Falconer of Halkertoun, chancellor, stand, pronuncet and declairit the said George Meldrum, younger of Dumbrek, to be ffylet, culpabill and convict of the haill crymes aboue specifeit.

SENTENCE. And thairfoir, the said Justice-generall and Mr Williame Hairt, his principall depute foirsaid, be the advyse of John Erll of Montrois, chancellor of this realme, and dyuerse vtheris Lordis of his Maiefteis Secreit Counfall and Sessioun, than sitting in judgment, as Affessouris, (ffinding the saidis crymes to be tressonable), be the mouth of Robert Scott, dempster of Court, Ordanit the said George Meldrum to be tane to ane scaffold, befyde the mercait croce of Edinburghe, and thair his leid to be strukkin fra his body; and all his landis, heritages, takkis, fteidingis, rowmes, possessiones, coirnes, cattell, insicht pleniffing, guidis and geir to be fforfalt, escheit and inbrocht to our fouerane lordis vse, as convict of the saidis tressonable crymes.—Quhilk wes pronunceit for dome.¹

[*Mr Williame Hairt, Justice-Depute.*]

‘Field of the Lennox,’ or ‘Conflict of Glenfruin’ — Slaughter of the Colquhouns — Stouthreis — Treason — Fire-raising, &c.

[The proscription and the cruel and systematic persecution of the CLAN-GREGOR, for a long series of years, although, in the abstract, a subject familiar to every reader of Scottish History, has hitherto been very imperfectly explained. The Criminal Records, and the Acts of the Privy Council, throw much light on all the various branches of this extraordinary event. To save the necessity of future repetition, it appears to the Editor to be necessary, at the outset of these proceedings, to give a very brief sketch of the circumstances which led to ‘THE FIELD OF THE LENNOX’—or ‘THE RAID’ or ‘CONFLICT OF GLENFROON’; and of those events which ultimately terminated in the Execution of

¹ ‘The 12 of Januar, George Meldrum of Dumbrek beheidit, for Oppression and uther odious crymes.’—*Birtel*.

the Laird of MacGregor, and of many others of his name. All the future oppression and persecution of the race of the MacGregors ostensibly take their rise from this Conflict.

The Clan-Gregor, which, from whatever causes, had been for some time looked upon as an unruly tribe, was, for some years previous to 1603, placed under the control of ARCHIBALD (seventh) EARL OF ARGYLE, who, as King's Lieutenant in the ' Bounds of the Clan-Gregor,' was invested with very extensive powers, and who, by his acceptance of the office, was made answerable for all excesses committed by the Clan. In these circumstances, it might be supposed that it was Argyle's interest, as it certainly was his duty, to have done all in his power to retain the Clan-Gregor in obedience to the laws; but, on the contrary, it appears that, from the time he first, as King's Lieutenant, acquired the complete control of the MacGregors, the principal use he made of his power was artfully to stir up the Clan to various acts of aggression and hostility against his own personal enemies, of whom, it is known, COLQUHOUN OF LUSS was one. It is to this crafty and perfidious system of the Earl, therefore, that we must solely trace the feud between the Colquhouns and MacGregors, which proved, in the end, so hurtful to both; a result, no doubt, all along contemplated by this powerful but treacherous Nobleman. But it is unnecessary to enlarge upon this point, as the Dying Declaration of the Laird of MacGregor places in a very clear light the cruel and deceitful policy pursued by Argyle, and which was too frequently resorted to by others, in those days, for *quieting* the Highlands. It may be remarked, that this interesting document, besides undoubtedly bearing internal evidence of truth, is corroborated, in almost every part of it, by the Public Records.

It is also to be remarked, as particularly worthy of notice, that at the period of this fatal Conflict, both of the contending parties were, in a manner, equally armed with the Royal authority; the Laird of Luss having raised his forces under a Commission, emanating from the King himself; while the Laird of MacGregor marched to invade the Lennox, under the paramount authority of the King's Lieutenant!

The popular accounts of this transaction charge the MacGregors with two atrocities, committed after the battle, viz. the Murder of Sir Humphrey Colquhoun, who had fled from the field of battle, and had taken refuge in the Castle of Bannachra; and the Slaughter of a number of defenceless boys, from the Grammar School or ' College ' of Dumbarton,¹ who, from curiosity, came to see the fight, and had, by Colquhoun's order, been put into a barn for safety; where, on the success of the Highlanders, they were said to have been murdered. In justice to the Clan-Gregor, it is but fair to mention that, on investigating this subject, it clearly appears that Sir Humphrey was murdered in his Castle of Bannachra, in July 1592, above eleven years before this Conflict, by some of the MacFarlans, under circumstances of extreme atrocity. He was succeeded by his brother Sir Alexander, who was alive *anno* 1610. The then Laird of Luss must therefore have fled from the field of battle, leaving his vassals to be cut to pieces by their victorious antagonists. As to the Slaughter of the schoolboys, it is enough to state that this circumstance forms no point of any of the Dittays against those of the MacGregors who were tried for their share in this battle, although every criminal act which could possibly be adduced against each of them is carefully inserted in their Indictments. Such an atrocious fact could not have escaped the notice of all his Majesty's Advocates, for such a length of time—and there was no lack of informers. It is thought that this massacre is alluded to in the Records of the Privy Council, Jan. 5, 1609, where it is stated, that ' Allan Oig McIntach, in Glenco,' when aiding the Clan-Gregor at Glenfrune, ' with his awne hand, murdered, without pity, the number of forty poor perfons, who were naked and without armour.'

According to the Editor's usual plan, some passages from contemporary MSS. are appended, in illustration of the facts.]

¹ So called, probably, from their education being conducted in the Collegiate Church there, or under the auspices of the Clergy of that establishment, by virtue of some charitable endowment.

Jan. 20.—ALLASTER M'GREGOUR of Glenstra, Patrik Aldoche M'gregour, Williame M'neill his seruand, Duncan Pudrache¹ M'gregour, and Allaster M'gregour M'kean.

Dilatit, accusit and persewit, at the instance of Sir Thomas Hammiltoun of Monkland, knyght, aduocat to our souerane lord, &c. off the crymes following : FORSAMEKILL as thay and ilkane of thame, accompaneit with vmq^{le} Johnne Dow, brother to the said Allaister M'gregour of Glenstra, and vtheris thair kin, freindis, and of thair counfall, haifing concludit the distructionne of Alexander Colquhoun of Luse, his kyn, freindis and alya, and the haill surname of the Balquhamanis, and to herrie² thair landis ; thay convenit to thamefelffis the Clanhamrone,³ the Clanauverich,⁴ and dyuerse vtheris brokin men and foirneris,⁵ to the number of foure hundreth men, or thairby, all bodin in feir of weir, with hagbuttis, pistolettis, murrionis, mailzie-coittis, pow-aixes,⁶ tua-handit-swoirdis, bowis, darloches, and vtheris wappones, *invasiue*, incontre the tennour of the Actis of Parliament : And, for the performance of thair wicked conclusioun, vpone the sevint day of Februlare lastbypast, come fordward, in arrayit battell, to the Landis of Glenfrwne, pertening to the Laird of Luse ; quhair the said Laird of Luse, accompaneit with certane of his freindis, war convenit, be vertew of our souerane lordis Commissioun, to resist the saidis persones crewall interpryses ; and thair fet vpone him, his kyn and freindis, and crewallie invaidit thame for thair slauchteris, schamefullie, crewallie and barbaruslie mordreift and slew Peter Naper of Kilmahew ; Johnne Buchamane of Buchlyvie ; Tobias Smallet, bailzie of Dumbarten ; David Fallefdaill, burges thair ; Thomas and James Fallafdaillis, his sones ; Walter Colquhoun of Barnehill ; Johnne Colquhoun, fear thair of ; Adam and Johnne⁷ Colquhounes, sones to the Laird of Campstradden ; Johnne Colquhoun of Dalmure, and dyuers vtheris persones, our souerane lordis leigis, to the number of sevin scoir personis or thairby ; the maist pairt of thame being tane captiues be the saidis M'gregouris befor thai pat violent handis in thame, and crewallie slew thame : And tressonabillie tuik Williame Sempill and dyuerse vtheris, our souerane lordis frie leigis, and convoyit thame away captive with thame, and be way of maisterfull Stouthreif, staw, rest and away-tuik sax hundreth ky and oxin, aucht hundreth scheip and gait, fourtene scoir of horse and meiris, with the haill plenissing, guidis and geir, aff the fourscore pund land of Luse ; and at the samyn tyme, tressonabillie raisit ffyre in the houffis and barne-jairdis thair of, brunt, waistit and distroyit the samyn, with the coirnis being thairin. And the foirsaidis persones and ilk ane of thame ar airt and pairt

¹ Of the country of Balquhider.

² Spoil, plunder and devastate.

³ Clan Cameron.

⁴ Quere, the Clan Ian Averiche (Abroch), viz. the MacDonalds of Glencoe ?

⁵ Sorners, persons

who violently took free quarters, and committed acts of violence, having no fixed home.

⁶ Morions,

coats of mail, poll-axes.

⁷ See Note, Vol. II. p. 426.

of the faidis crewall, horrible and treffonabill crymes; the lyk quhairof was nevir committit within this realme: Committing thairby manifest Treffone, in hie and manifest contempt of our fouerane lord, his hienes auctorite and lawis.

ASSISA.

Sir Thomas Stewart of Garnetullie, Johnne Blair younger of that Ilk, Thomas Fallafdaill burges of Colene Campbell younger of Johnne Grahame of Knokdoliane, Dumbartene, Glennorchie, Moyfes Wallace burges of Ed^r, Johnne¹ Herring of Lethindie, Alexander Menzeis of Weyme, Sir Robert Creychtoun of Clwny, Williame Stewart, Capitane of Robert Robertfoun of Strowane, kny^t, Dumbartene, J^{no} Naper fear of Merchinfoune, Robert Robertfoun of Falkeilzie, Harie Drummond of Blair, Johnne Blair elder of that Ilk.

For verificatioun quhairof, the said Sir Thomas Hammiltoun of Monkland, aduocat, producet the faidis perfonis Depositiones and Confessiones, maid be thame in prefens of dyuerse lordis of his hienes Secreit Counfall and Sessioun, subferyuit with thair handis.—The Aduocat askit instrumentis, (1.) Of the fweiring of the Assyse, and protestit for Wilfull Errour aganis thame, in cais thay acquit. (2.) Of the fweiring of the Dittay be the Laird of Lufe. (3.) Of the productionne of the pannellis Depositiones to the Assyse.

VERDICT. The Assyse, all in ane voce, be the mouth of Johnne Blair, elder of that Ilk, ffand, pronuncet and declairit the faidis Allaster M^cGregour of Glenftra, &c. to be fylet, culpable and convict of the crymes aboue spacificit.

SENTENCE. And thairfor, the Justice-depute, finding the faidis crymes to be treffonabill, be the mouth of James Henderfoun, dempstar of Court, Ordanit the faidis perfonis to be tane to the mercat-croce of Edinburgh, and thair to be hangit vpon ane gibbet quhill thay be deid; and thairefter thair heidis, legis, airmes and remanent pairtis of thair bodeis to be quarterit and put vpon publict places, and thair haill landis, heritageis, annuelrentis, takis, fteidingis, rowmes, possessiones, coirnes, cattell, guidis, geir and fowmes of money pertening to thame, to be fforfaltit, efcheit and inbrocht to our fouerane lordis vs^e, as convict of the faidis treffonabill crymes.

DOCUMENTS *illustrative of* 'THE FIELD OF THE LENNOX,' or 'CONFLICT OF GLENFRUNE,' *and of the Proceedings against* THE LAIRD OF MACGREGOR *and his CLAN.*

(I.) EXTRACT *from Calderwood's MS. Church History, Advocates' Library, (Vol. V. p. 677.)*

UPON the eight of Februar, a great company of forners and brocken Highland men of the CLANE of MACKGRICORE, the number of 400 men, came down to Lennox, to reave and spoyle. The people of the country conueened to make impediment. There were flaine of the country people, specially of the furname of COLQUHOUN, to the number of fourscore persons or therby; of which number were landed men of good rank.² The Laird of Luce himself, Chief of the Colquhouns, escaped narrowly.

¹ In another place called *David*. ² The matter is thus noticed by Birrel and Fleming. 'THE 9 of Februar (1603,) the Laird of Mackygrigour, with four hunder of his name and factiounne, enterit in the Lennox, quhair he maid spuilzie and slaughter, to the nwmbler of 60 honest men, besyid women and bearnis. He spairit nane quhair he come.'—*Birrel's Diary*. ('Apr. 9.) Proclamation sumonding all the McGregouris to comper and wnderly the law for the slaughter of the Laird of Luss, and the men of Dumbartane.'—*Fleming's MS. Chronicle*.

They carried away a thousand head of cattell, beside other insight and plenishing. It was reported, that that was done at the instigation of the Duke of Lennox his lady, seeking the wrack of the Laird of Luce, who held of the King, and not of the Duke !

(II.) EXTRACT from *MS. History of Scotland, Anon. Advocates' Library, (A. 4. 35.)*

Now, on the secund day of October (1603), THE LAIRD OF ARKINLES takis in hand to THE ERLL OF ARGYLL, to tak THE LAIRD OF MACGREGOUR ; and callis him to ane bankatt¹ in his hous, quhilk hous stuid within ane Loch ; and thair takis him prissoner, to send him to Argyll. And putting him in ane boitt, with fyve menne with him, by² thame that rowit the boitt ; he, seing him selff betreisfit, gettis his handis lowfe ; and striking him our burd that was narrest him, he lowpis in the watter, and out-fowmis³ to the land. And so efcheappis wntene,⁴ for the presentt. Now the Erll Argyll, perfeasfing that he wes eschapitt, he sendis to him, defyryng him to cum to him, that he mycht confer with him, vnder promeis to lett him gang frie, gif thay culd nocht agrie. Wpoun the quhilk, the Laird Mcgregour come to him ; and, at his cuning, was weill ressaunt be the Erll ; quha schew him, that he was commandit be the King to bring him in ; bot he had no doubt bot his Majesty wald, at his requiest, pardoun his offence ; and he fudd, with all diligenfe, send tua Gentill menne to Ingland with him, and fudd with all diligenfe follow him selff. Wpoun the quhilk fair promiseis he was content ; and come with the Erll of Argyll to Edinburgh ; quhair, on the 10 day, he was be the Gaird conwoytit to Berwick, within Inglis grund, and fyne brocht back to Edinburgh. And on the 20 day was hangitt at the Corfe, with tenne of his kin and freindis hangit with him ; to the gritt diseredit of the Erll Argyll, quha wes the doare of the famin.⁵

(III.) EXTRACT from *Robert Birrel's Diary, MS., Advocates' Library, (p. 138.)*

THE 2 of October (1603), ALLESTER MCGREGOUR of Glainfre tane be the Laird of Arkyntes, bot escapit againe ; bot efter, taken be the Earle of Argyll the 4 of Januar ; and brocht to Edinburghe the 9 of Januar 1604, with 18 mae of his freindis, Mcgregouris. He wes convoyit to Bervick be the Gaird, conforme to the Earlis promese ; for he promesit to put him out of Scottis grund. Swa he keipit ane Hieland-manis promes ; in respect he sent the Gaird to convoy him out of Scottis grund : Bot thai wer not directit to pairt with him, bot to fetcche him bak agane ! The 18 of Januar, at evine, he come agane to Edinburghe ; and vpone the 20 day, he wes hangit at the Croce, and ij (*eleven*) of hes freindis and name, upone ane gallous : Himselff, being chieff, he wes hangit his awin licht aboue the rest of hes freindis.

(IV.) EXTRACT from *Calderwood's MS. Church History.*

UPON the 18 of Januar, MAKGREGORE was conveyed be the guard who attended upon the Counsell to Berwick, becaufe Argyle promised to him, when he rendered himself, that he should be caried to Ingland : But a post was appointed to meet him to caus bring them back againe, which was done ! Immediatly, upon the 20 of Januar, he and fundrie of his Clane were hanged in Edinburgh. Sevine of thair number came in, long before, as pledges for performance of certaine conditions, which were to be filled by their chief ; but they were hanged with the rest, without the knowledge of ane Assyse. They were young men, and reputed honest, for their own parts. The Laird of Makgrigore was hanged a pinne above the rest. A young man, called James Hope, beholding the execucion, fell down, and power was taken from the half of his body. When he was caried to ane house, he cryed, that ' one of the Highland men had shott him with ane arrow ! ' He died upon the Sabbath-day after.

¹ Invites him to a banquet. ² Forbye, over and above, besides. ³ Swims out, outstrips the boat by his swift swimming. ⁴ Untaken. ⁵ *Fleming*, in his Chronicle, (*MS. Adv. Library.*) thus records the event. ' The Laird of Mcgregour hangit at Edinburgh and xj of his unhappie kin. They hang all nicht on the gallous.'— This almost unexampled act of perfidy, on the part of Argyle, the King's Lieutenant, and the Justice-General of Scotland, gives a lamentable picture of the features of those unhappy times ; and it would appear that the government seemed to think it no discredit to take advantage of such an infamous breach of trust.

(V.) THE LAIRD OF MCGREGOURS DECLARATION, *producit the tyme of Conviction*.¹

I, ALLESTER MAGRIGOUR of Glenstra, CONFESSE heir before God, that I have bein persuadit, movit and intyfit, as I am now presentlie accusit and trublit for; als, gif I had usit counfall or command of the man that hes Intyfit me,² I wald have done and committit findrie heich Murthouris mair; ffor trewlie, sen I was first his Majesteis man,³ I culd never be at ane eife, by my Lord of Argylls fallhete and inventiones; for he caufit M^cClaine and Glenchamrowne⁴ committ herfchip and slauchter in my roum of Rennoche, the quhilk caufit my pure men thereafter to bege and steill: Also, thereafter, he moweit my brother and sum of my freindis to commit baith herfchip and slauchter upone the Laird of Lufs: Also, he persuadit myfelfe, with messlage, to weir⁵ aganis the Laird of Boquhanene, quhilk I did refuse; for the quhilk I was contenowalie hostit⁶ that he shuld be my unfreind; and quhen I did refuse his desire in that point, then he intyfit me with uther messingeris, as be the Laird of M^cKnachtane and utheris of my freindis, to weir and trouble the Laird of Lufs; quhilk I behuffit to do for his fals boutgaittis:⁷ Then, quhen he saw I was at ane strait, he cawfit me throw⁸ he was my guid freind; bot I did persave that he was slaw⁹ therin: Then I made my moyan¹⁰ to pleis his Majestie and Lords of Counfall, baith of service and obedience, to puneishe faultouris and to saif innozent men;¹¹ and quhen Argyll was maid foresein¹² thereof, he intyfit me to slay and start fra thay conditionis, causing me to understand, that I was dissavit; bot with fair wordis, to put me in ane snair, that he mycht gett the lands of Kintyre in feyell¹³ fra his Majestie, begane to putt at me and my kin:¹⁴ The quhilk Argyll inventit, maist schamfullie, and persuadit the Laird of Ardkinlafs to dissave me, quha was the man I did maist trest into; bot God did releif me in the mean tyme to libertie, maist narrowlie.¹⁵ Neuertheless, Argyll maid the oppin brutt,¹⁶ that Ardkinlafs did all that fallheid by¹⁷ his knowlege; quhilk he did intyfe me, with oft and findrie messlages, that he wald mak my peace and saif my lyfe and landis, only to puneis certane faltouris of my kin, and my innozent freindis¹⁸ to renunce thair surname, and to leif peaceablie. Vpone the quhilk conditionis, he was suorne be ane ayth to his freindis; and they suorne to me; and als, I haif his warrand and handvrytt therevpon. The quhilk promeis, gif they be honestlie keipit, I let God be Juge! And at our meting, in oure awin chalmer, he vas suorne to me, in witness of his awin freind. Attour,¹⁹ I Confess, befor God, that he did all his craftie diligence to intyfe me to slay and destroy the Laird Ardinkaippill, M^ckallay,²⁰ for ony ganes kyndness or freindschip that he mycht do or gif me.²¹ The quhilk I did refus, in respect of my faithfull promeis maid to M^ckallay of befor.²² Also, he did all the diligence he culd, to mowe me to slay the Laird of Ardkyndlas, in lyk

¹ The Original of the very interesting and important Paper now given, is preserved in the General Register House, and is in the hand of the then Clerk of Secret Council, James Primrose. It is marked as—'PRESENTIT BE MA WILLIAME HAIRT,' (of Levilands) as an article of evidence of his guilt, at his Trial. It will be recollected that this person officiated as Justice Depute on the occasion. Glenstray had surrendered to Argyll, on condition of his being permitted to go to England; by which the former meant that he should visit the English Court, and have, if possible, access to the King. It was obviously Argyll's policy to prevent this; but, that he might fulfill his promise, he sent him, under a strong escort of troops, to beyond the river Tweed, at Berwick, where the soldiers, wheeling to the right about, made MacGregor retrace his steps. He was two days only in Edinburgh, after his return from England, when he was executed.—See *Sir James Balfour's Annals*, and Nos. II. and IV. of these illustrative documents. ² The Earl of Argyll, King's Lieutenant in the Bounds of the Clan-Gregor, since July, 1596.—*Records of Secret Council*. ³ He had taken the usual oath to be his Majesty's 'household-man,' 27th July 1596, as appears from the Record of Secret Council. ⁴ Clan-Cameron. ⁵ Wage war. ⁶ Threatened. ⁷ Deceitful courses; literally, 'round-about ways.' ⁸ Believe. ⁹ Slow, slack. ¹⁰ Did my endeavour, *moyen*. ¹¹ This point is illustrated by an *Original Paper*, preserved in the General Register House, of date Jul. 24, 1599. ¹² Advertised, informed. ¹³ Fee, feudum. ¹⁴ This refers to the Royal promise of reward to Argyll, after Feb. 7, 1603, for apprehending Glenstray; which reward, as he had earned it, he afterwards received; and it was confirmed to him by the Parliament, 1607. ¹⁵ This refers to that escape from Campbell of Ardkinglass, hereditary Sheriff of Argyllshire, mentioned by *Sir James Balfour* and by *Birrel*. ¹⁶ Report. French, *bruit*. ¹⁷ Without, contrary to his knowledge. ¹⁸ Such of them as were innocent of the crimes charged against the Clan generally. ¹⁹ Moreover. ²⁰ Awlay MacAwlay. ²¹ In the *Lord Treasurer's Books* of Scotland. Nov. 1602, is the following entry: 'Item, to Patrik McOmieis, messenger, passand of Edinburgh, w^t Lettres to charge Ar^d Earle of Argyll to compeir personallie befor the Counsell, the xvj day of December next, to ansuer to sic thingis as salbe inquirit at him, touching his lying at await for the Laird of Ardinkaippill, vpon set purpos to have slane him, xvj li.

²² GLENSTRAY and MACAULAY had entered into a Bond of Clanship, May 27, 1591, in which the latter owns his

maner; bot I neuer grantit therto:¹ Throw the quhilk he did invy me grettumly.² And now, feing God and man feis it is greidenes of warldlie geir quhilk causis him to putt at me and my kin, and not the weill of the realme, nor to pacifie the samyn, nor to his Majestie honour, bot to putt down inno-
sent men, to cause pure bairnes and infanttis bege, and pure wemen to perisch for hunger, quhen they ar hereit of thair geir: The quhilk, I pray God, that thais faltis lycht not upon his Majestie heirefter, nor upon his succession. Quherfor, I wald beseik God that his Majestie knew the weratie, that at this hour I wald be content to tak Baneifment, with all my kin that was at the Laird of Lussis slauchter, and all utheris of thame that ony falt can be laid to thair charge: And his Majestie, of his mercie, to lat pure inno-
sent men and young bairnes pas to libertie, and lerne to leiff as innocent men: The quhilk I wald fulfill, but ony kynd of fail;³ quhilk wald be mair to the will of God and his Majestie honour, nor⁴ the greidie, cruell forme that is devyfit, only for leuf of geir, haveing nether respect to God nor honestie!

Field of Glenfrume — Murder — Fire-raising, &c.

Feb. 17.—JOHNNE DOW M^cEWIN M^cGREGOUR, Patrik M^cilvarnoch, his man, Duncan M^cenham M^cgregour, Duncan M^cAllester Vrek, Allester M^cEwin V^ccondochie, Johnne M^cean V^cgregour, Ewin M^ccondochie clerich, Johnne Ammonoche M^cgregour, Duncan Beg M^cgregour V^ccoull chere, Gregour M^cNicoll in Dalveich, Johnne Dow M^ccondochie V^cewin.

Dilatit of certane crymes of Murthour, Thift, Soirning; and for being at the ffeild of Glenfrume, in companie with vmq^{le} Allaister M^cgregour of Glenstra,⁵ his kyn and freindis; and of the Slauchteris, ffre-raising, Reif and Hershippis committit in the moneth of ffebruare 1603 yeiris, aganis the Laird of Lufe, his freindis and pairtakeris, viz. (1.) *Johnne Dow M^cewin M^cgregour*, for his intercowmoning with vmq^{le} Allaister M^cgregour of Glenstra, vmq^{le} Patrik Aulauch M^cgregour and vtheris thair complices, quha war at the treffonabill burning of Robert Watterfones barne of Kallechoit, and at the steilling of the Laird of Merchinstounes oxin; committit in September last. ITEM, of airt and pairt of the thiftious steilling, furth of Andro Allanes house in Kipine, of fyve ky; committit in October last. ITEM, for airt and pairt of the slauchter of vmq^{le} Johnne Drummond in Drony of Cowgask; committit in August last. ITEM, for airt and pairt of the steilling of ane milk sow⁶ fra Patrik M^cboricht, furth of his duelling-hous of Glenmawak; committit in September last. AND ficyk, of cowmone Thift and cowmone reffet of thift.—(2.) *Patrik M^ckilvarnoch*, fervand to the said Johnne Dow, of airt and pairt of the haill crymes aboue writtin; as being in companie with his said maister thairat.—(3.) *Duncan M^cinham M^cgregour*, ffor airt and pairt of the thiftious steilling fra Eduard Reidoche of

being a Cadet of the House of the former, and promises to pay him 'THE CALP.'—*Paper in the General Register House.* This instrument had, as would seem, been discovered by the Government, and led to the suspicion, alluded to in a former part of this work (See May 17, 1603), that MacAulay had aided Glenstray in the feud of Glenfruin. MacAulay seems to have escaped death, by being under the protection of the Duke of Lennox, and forming one of his train or 'Tail,' in the King's journey to England, to take possession of the English Throne.

¹ Ardkinglass, as appears from the *Book of Taymouth*, was Glenstray's near kinsman.

mortal grudge at me.

³ Without failure or evasion.

⁴ Than.

² Bore a great or

⁵ See Jan. 20, 1604.

⁶ Ewe,

fyve horfe and meiris ; committit in the moneth of I^m.V^c. fourfcoir and fourtene yeiris. ITEM, of airt and pairt of the thiftious fteilling fra Allafter M^ccondochie Vic James Robiefone, in Callewin, of ten horfis and meiris ; committit in the moneth of yeiris.—(4.) *Daucane M^cAllafter Vrek* in Farne, ffor airt and pairt of the thiftious fteilling furth of the landis of Air-liewicht of fourtie ky, pertening to the Laird of Bandrane ; committit ten yeir fyne or thairby. ITEM, for the thiftious fteilling furth of the Laird of Strowanes crandoche¹ of his haill inficht, worth I^m. lib.² ITEM, for airt and pairt of the flaughter of vmq^{le} Donald Dereif. ITEM, for airt and pairt of the thiftious fteilling furth of the landis of Downance in Menteith, of fourtie ky, tuelf horfis ; committit in the yeir of God I^m.V^c. fourfcoir aucht : And for intercowmoning with the Laird of M^cgregour : And for cowmone Thift and cowmone refset of thift.—(5.) *Ewin M^ccondochie Clerich*, ffor his treffonabill intercowmoning with the Laird of M^cgregour, and fclawing of fauour and fupplie to him : And for cowmone thift, and cowmone refsett of thift.—(6.) *Johne Dow M^ccondochie Vcwin*, ffor treffonabill intercowmoning with vmq^{le} the Laird of M^cgregour, and geving him fupplie and conforte.—(7.) *Johne Ammonache M^cgregour* in Kingart, ffor airt and pairt of the thiftious fteilling of fax fcheip furth of Schandballie ; committit aucht yeir fyne or thairby. ITEM, for cowmone Thift and cowmone refsett of thift.—(8.) *Allafter M^cewin Vccondochie*, in Couldar, ffor airt and pairt of the heirfchip of the Downance in Menteith ; and of the flaughteris than committit ; and fpeciallie of the flaughter of vmq^{le} Andro Grahame.—(9.) *Gregour M^cneill* alias *Cowanache*, ffor airt and pairt of the crewall Murthour and Slaughter of vmq^{le} the ffidler M^ckillope, within his awin hous in Dalvey ; committit at Anderfines,³ I^m. fax hundreth and tua yeiris. ITEM, ffor the thiftious refletting and treffonabill intercowmoning (of vmq^{le} the Laird of M^cgregour ?) eftir he wes difcharget be proclamationne.—(10.) *Johne M^ckean Vcgregour*, in Glenogill vnder Tawie-barne, ffor the crewall Murthour, flaughter and drowning of M^ckillopis wyfe, that duellt in Glenartuay, being in company with vmq^{le} Patrik Aulacl ; committit in harveft laft. ITEM, for refset of the brokin men of the M^cgregouris, within his duelling-hous, and treffonabill intercowmoning with thame, aganis his hienes Proclamationn.—(11.) *Duncan Beg M^cgregour Vc coull Chere*, ffor airt and pairt of the crewall Murthour and flaughter of fevin fcoir perfones flane at Glenfrwne ; and heirfchip than committit thairin, in the moneth of ffebruare 1603. ITEM, for cowmoun thift and cowmoun refsett of thift : And for the treffonabill intercowmoning with vmq^{le} the Laird of M^cgregour, eftir he was difcharget be proclamationne.

¹ Or *crandoche*, a Highland gentleman's dwelling-house.
Andrew's-mass, the 30th day of November.

² £1000.

³ St Andrew's day,

ASSISA.

Mr Moreis Drummond of Cal- Mungo Buchannane in Tullie- Jacobi¹ Edmestoun of Newtonn,
 cherie, chewin, David Drummond in Drymmen,
 James Spreull ffear of Cowden, James Dennyftounne of Cowgrane, Johnne Naper of Kilmahew,
 Colene Campbell of Abernuchill, Thomas Fallafdaill in Ardoche, Johnne Mufchet at the mylne of
 Mungo Lyndfay of Ballull, David Mufchet of Orcheardheid, Tor,
 Robert Naper of Blakzairdis, Johnne Buchannane of Ibert, Harrie Mitchell in Darra.

The Aduocat askit instrumentis of the sweiring of the Affyse; of Johnne Dowis Declaratiounne, that Patrik M^cilvarnoch his man hes bene with him this tua yeir bygane, and is pairtaker of all his factis. The Aduocat, for verifeing the poyntis of Dittay, producet the Kingis Proclamatiounne, Actis of Secreit Counfall, contenit in the buik of Secreit Counfall producet, and askit instrumentis thairvpoune: And protestit for Wilfull Errour aganis the Affyse, in caise thai acquit.

VERDICT. The Affyis, be the mouth of David Drummond, chancellor, ffand, pronuncet and declairit the saidis perfones to be ffylet, culpable and convict of the perticuler poyntis of Dittay aboue writtin.

SENTENCE. The Justice-depute decernit and adjudget the said John Dow, &c. to be tane to the mercait-croce of Edinburgh, and thair to be hangit vpoun ane gibbet quhill thai be deid; and all thair moveabill guidis to be escheit and inbrocht to our fouerane lordis vse, as convict of the saidis crymes.²

‘Field of Glenfrune’ — Slaughter of the Colquhouns, &c.

Mar. 1.—NEILL M^cGREGOUR in Meirie (Mewie,) Patrik Gair M^cgregour, Donald Roy M^cgregour, Duncane M^cgregour, Donald Graffiche M^cCadanich.

Dilatit, accuset and perfewit for being in company with vmq^{le} Allafter M^cgregour of Glenstra and his complices, at the ffeild of Glenfrwne,³ and of airt and pairt of the slauchter of fevin fcoir perfones, being all freindis, fervandis, afflisteris and pairtakeris with the Laird of Lufe at the said ffeild, and of the heirschipis thair committit be the said Laird of M^cgregour and his complices: And of the tressonabill raising of ffyre and burning of dyuerse houffis, within the boundis foirsaid; committit in the moneth of Februlare, the yeir of God I^m.Vj^c. and thre yeiris: And siclyk, for intercowmoning with the said Laird of M^cgregour and perfones foirsaidis, his complices, that war at the said slauchter and heirschip, sen the committing thairrof.—AND als, the said *Patrik Gair M^cgregour* being indyttit and accuset for the hounding out of his thre fones to the said ffeild, and murthouris and slauchteris than committit vpone the said Laird of Luffis freindis: And of airt and pairt, red, counfall, foirknowledge, assistance and ratihabitounne

¹ This person is so named in various places of the Record.

name of MacGregor hangit, quho had lain lang in the Tolbuith.—*Birrel*.

² ‘The 18th of Februar, 9 of the

³ See Jan. 20, 1604.

of the said murthouris and heirschippis : And fiedyke, for the reffett and intercowmoning with the Laird of M^cgregour and his complices that war at Glenfrune, and reffetting of thame with the bludie hand, fen the tyme foirfaid of the said heirschip and slauchteris.

ASSISA.

Mungo Lyndfay of Ballull,	Constene Moirtoun,	Robert Buchannane in Kippen,
Johnne Buchannane, burges of	Hew Glen of Lynthillis,	Robert Buchannane Walterfoune,
Dumbarten,	Johnne Buntene of Ardoche,	Dongall M ^c farlen in Murnagane,
George Buchannane in Ladrifch,	Thomas Naper of Barriekynrayne,	Walter Blair of Fynnech,
Thomas Fallafdaille, burges of	Johnne Naper of Kilmahew,	Dauid Hadden (Haldene,) Tutour
Dumbarten,	Johnne Sempill of Foulwoid,	of Glennageis.

VERDICT. The said Assyse, all in ane voce, be the mouth of the said Robert Buchannane Walterfoune, ssand, promuncet and declairit the saidis fyve perfones to be fylet, culpable and convict of the haill crymes abone spcifeit.

SENTENCE. And thairfoir, the Justice-depute, be the mouth of Robert Scott, dempstar of Court, decernit and ordanit the saidis perfones to be tane to the gallouse of the Burrow-mure of Edinburghe, and thairupoune to be hangit quhill thay be deid ; and thair haill moveable guidis to be escheit and inbrocht to his hienes vse, as convict of the saidis crymes.

Thett — Reset of Laird of MacGregor — ‘ Field of Glenfrune,’ &c.

Mar. 2.—MALCOLME M^cCOULL CLERICH (M^ccherich,) in Innerlochlarg ; Duncan M^cfadrik V^cconll Chere, in Innerlochlarg, vnder the Laird of Tulliebardin ; Johnne M^ccoull Chere, in the Bray of Balquhiddier, and Neill M^cWilliame V^cNeill.

Dilaitit of certane poyntis of Thift ; and for Intercowmoning with vmq^{le} the Laird of M^cgregour, fen the Raid of Glenfrune, viz. (1.) *Malcolme M^ccoull Cleriche (Cheriche)*, ffor airt and pairt, and being on the grundis at the crewall Slauchter of vmq^{le} Hew Stewart, serveand to my Lord Athole ; committit threttie yeir fyne, or thairby. ITEM, for airt and pairt of the slauchter of vmq^{le} Patrik M^cgregour, in Glenbokie ; committit in the moneth of September, the yeir of God I^m.V^c. threfcoir faxtene yeiris. ITEM, for geving of counfall to vmq^{le} the Laird of Makgregour, his kyn and freindis, to pas fordward aganis the Laird of Lufe to Glenfrune ;¹ and for convoying² the said Laird of M^cgregour agaitwart³ to the fyd of Lochloun, afoir the ffeild : And for airt and pairt of the slauchteris and heirschippis committit at Glenfrune be the said Laird of M^cgregour and his complices, in the moneth of Februare 1603 yeiris. ITEM, for the tressonable Intercowmoning with the said Laird of M^cgregour, and Reffett of him and his freindis and pairtakeris that war at the ffeild of Glenfrune, and geving of thame herbrie, help and supplie, in meit, drink and bedding, wittinglie and willinglie,

¹ See Jan. 20, 1604.

² Escorting.

³ On the way or *gait*.

at dyuerſe tymes, ſen thai war denuncet our ſouerane lordis rebellis and declairit tratouris, and ſen his Maieſteis Proclamationne, inhibeiting all our ſouerane lordis leigis to intercowmone, reſſett or gif countenance or ſchaw fauour to the ſaidis rebellis.—(2.) *Duncan M^cfadrík V^ccoull cheir*, ſfor airt and pairt of the Slauchter of the ſaid v^mq^{le} Patrik M^cgregour; committit in September 1576 yeiris. ITEM, for geving of counſall to the Laird of M^cgregour to pas fordward to the ffeild of Glenfrune aganis the Laird of Luſe, and convoying him to the fyde of Lochlounne, agaitward, to the ſaid ffeild. ITEM, for wilfull Intercowmoning and geving of counſall to the Laird of M^cgregour, and convening with him in dyuerſe meittingis and conventionnes, had and keipit be him and his freindis, ſen thai war denuncet his Maieſteis rebellis, for the Murthour, Slauchteris and heirſchipis committit be thame at the ſaid ffeild of Glenfrune, incontrair to his Maieſteis proclamationne.—(3.) *Neill M^cWilliamne V^cNeill*, ſfor the treſſonabill Intercowmoning with the Laird of M^cgregour, his kin and freindis that war at the murthour and heirſchipis in Glenfrune, and reſſett of thame within his hous, and geving meit and drink to thame wittinglie and willinglie, at dyuerſe tymes ſen thai war denuncet rebellis, &c.—(4.) AND ſiclyk, *Johne M^ccoull Cheire*, ſfor airt and pairt of the crewall Murthour and Burning of auchtene houſhalderis of the Clanlawren,¹ thair wyves and bairnis; committit fourtie ſax yeir ſyne, or thairby. ITEM, off airt and pairt of the Slauchter of v^mq^{le} Hew Stewart, ſerveand to my Lord of Athole; committit threttie yeir ſyne, or thairby: And in taking pairt with the Clan-Gregouris at the Heirſchip, committit the tyme foirſaid, aganis the Tutour of Bofrak. ITEM, for Intercowmoning with the Laird of M^cgregour and his complices that war at the ffeild of Glenfrune, ſen thair denunciatiounne; and geving of conforte, ſupplie and freindſchip to thame, contrair the tennour of the Proclamationne. ITEM, for cowmone Thift, cowmone reſſett of thift, outputing and inputing of thift fra land to land, fra cuntrey (to cuntrey), baith of auld and new.

VERDICT. The Aſſiſe, be the mouth of Mungo Lyndſay of Ballull, chancellor, ſſand, pronuncet and declairit the ſaidis Malcolmne, Duncan and Neill to be flylit, culpable and convict of the haill crymes and poyntis of Dittay aboue writtin: And the ſaid Johnne M^ccoull Cheire to be Clene, innocent and acquit of the ſaidis crymes.

SENTENCE. And thairfoir the ſaid Juſtice-depute, be the mouth of Robert Scott, dempſtar of Court, decernit and ordanit the ſaidis Malcolmne M^ccoull and Duncane M^cFadrík to be tane to the gibbet at the mercat croce of Edinburghe, and thair to be hangit quhill thay be deid; and all thair moveabill guidis to be eſcheit and inbrocht to his Maieſteis uſe, as convict of the ſaidis crymes.

¹ The M^cLawrens, or Maclarens, a Clan reſiding in Balquhiddier.

Slaughter — Fire-raising.

Mar. 2.—**DAVID ARMESTRANG**, sone to *Sandeis Niniane*.

Dilaitit, accuset and persewit of airt and pairt of the Slauchter of vinq^{le} Johnne Johnnestoun, Persone of Turnergarth. ITEM, for airt and pairt of the Slauchter of Robert Currie, fervand to the Baillie of the Watter of Leyth, and thre mafones with him, at the Oisleris-hous in the Lwn : And for the tressonabill Raifing of ffyre, and Burning of the said Oisleris-hous.

VERDICT and SENTENCE. The same Assise, as in the above case, pronounced a similar Verdict of Guilty against Armstrang, who was hanged along with M^ccoull and M^fadrik.¹

Masterful Stouthreif — Theft, &c.

Mar. 10.—**THOMAS HARDIE**, sone to James Hardie of Bowmylnerig.

Dilaitit of the crymes following, viz. Forfamekill as he, with his complices, laithie, in the moneth of Apryle lastbypast, vnder sylence and cloud of nycht, betuix nyne and ten houres att ewin, vmbesett the hie way and passage, betuix Leith and Edinburghe, to Jaques De la Berge, ane Fleming and strangear, he being rydand, in peceabill maner, vp fra Leith to the burgh of Edinburghe ; and thair sett vpon him, tuik his horse be the heid, and caufit him lyeht fra his horse, and thaireftir rypeit him ; and thifteonslie, be way of maisterfull stouthreif, stall, rest and away-tuik fra the said Jaques De la Berge twa pursis, ane mair and ane vther less, with ane grit quantitie of gold and siluer contenit thairin, being for the maist pairt Inglis money : togidder with ane gold ryng, sett with ane dyamond, with ane broun naig quhairon he raid : And he wes airt and pairt of the thifteous steilling, reiffing, ressetting and away-taking thairof. ITEM, ffor the thifteous steilling, conceiling, ressetting and away-taking of ane blak horse fra James Libbertoun, in Nethir Libbertoun ; quhilk horse he fault thaireftir in Bow-castell, in England.

VERDICT. The Assise, be the mouth of . . . Cokburne of Chouslie, chancellor, ffand, pronounceit and declarit him to be ffylit, culpabill and convict of the poyntis of Dittay, &c.

SENTENCE. To be tane to ane gybbet, standand beneath the mercat croce of Edinburghe, and thairvpoun to be hangit quhill he be deid ; and all his moveabill guidis, takis, steidingis, &c. to be escheit, &c.

Horse, Cattle, and Sheep-stealing.

Mar. 10.—**WALTER DAVIDSOUN**, callit of Callelie.

Convicted by the same Assise, and ordained to be hanged along with Hardie,

¹ *Birrel* remarks, ‘ 7 MacGregors and Armstrangs wer hangit at the croffe.’

for stealing of horses, oxen and sheep, &c. from lands of Pittalisheuch, belonging to Dickfoun of Buchtrig, Sir Johnne Cokburne of Ormiston, kny^t, Justice clerk,¹ &c.

[*Mr Williame Borthuik, Justice-Depute.*]

Slaughter.

Mar. 15.—HECTOR TRUMBILL of Stanyledge; Hector Trumbill of Barnehillis; George Trumbill, his brother; and Gawin Trumbill, thair father-brother.

Dilatit for airt and pairt of the Slauchter of vniq^{le} Williame, James, Robert, Johnne, Andro and Thomas Grameflawis, fones to vniq^{le} Johnne Grameflaw of Lytill Newtown.

Mr Robert Home of Carolfyde, Hector Trumbill of Belfis and James Douglas of Caveris, as cautioners, amerciated for non-entry of the pannels, viz. the two first in 400 merks; and Douglas of Cavers, along with Trumbell of Barnehillis, in 1000 merks, 400 merks, and 400 merks. The pannels ordained to be denounced rebels, &c.

Cattle-stealing — Stouthreif, &c.

Mar. 20.—JOHNNE RENTOUN of the Scheillis.

Dilatit of airt and pairt of the Steilling of flourtene nolt fra James Burnet, &c. LYK AS, in the moneth of September, the yeir of God 1^m.V^c. fourscor acht yeiris, or thairby, vmbeset the lie way and passlage to certane cadgeris at the Brokin-mofs, quha war dryveand thre or four pakis of Inglis clayth, pertening to certane merchandis, inhabitantis of the burgh of Edinburghe, and thair, be way of Maisterfull stouthreif, staw, rest and away-tuik fra the saidis cadgeris foure pakis of Inglis clayth, and speciallie ane pak of Inglis clayth, pertening to Gray, mercheand burges of Edinburghe, estimat worth the fowme of Thre thousand merkis, money of this realme, &c. &c.

VERDICT. The Assyse, be the mouth of Mr James Home of Goddifcroft, all in ane voce, stand the said Johnne to be Cleane, innocent and acquit of the hail crymes.

Wilfully hearing Mass celebrated.

May 9.—ARCHIBALD MACBREK, burges of Perth.

Dilatit, accuset and persewit, be Mr Robert Lyntoun, Aduocat substitute to Sir Thomas Hammiltoun, &c. for the crymes contenit in the DITTAY following.

ARCHIBALD M^cBREK, burges of Perth, Ye ar indytit and accuset; fforfamekill as it is statute and ordanit, be our souerane lordis Actis of Parliament, and speciallie, be ane Act of his hienes fourtene

¹ 'The 10 of Marche, twa notabill thiefes *hangit* at the crosse, ane Thomas Hardie, and ane Davidson.'—*Birrel*.

Parliament, haldin and begwn at Edinburghe vpon the aucht day of Junij, the yeir of God 1^m. Vc. fourfcoir fourtene yeiris, that in all tymes cuming, all wilfull heiraris of Mefs and conceillaris of the fame fall be execute to the death, and thair haill guidis and geir efcheitit to his hienes vfe, as thay fall be fund giltie and convict thair of, or declairit fugitiue for the fame, befor the Juftice or his deputtis, or the lordis of his Maiefties Previe Counfall, as the faid Act at lenth beris : And trew it is, that Mr Robert Abercrombie, ane Jefuite and Preift, in the moneth of Marche laftbypaft, in the oulk (*week*) befor Palme Sondag laft, being reffet and ludget, with his man, in the faid Archibalds duelling hous in Perth, ane haill nicht ; the faid Mr Robert maid the faid Archibald foirfene, that he was to fay ane Mefs vpon the morne, airtie in the moirning, in George Bofuallis hous in Perth, quhair my lord Inchaffera and his famelie war ludget, and perfuaidit the faid Archibald to cum and heir the famyn : Lykas, vpon the morne, airtie in the moirning, in ane of the dayis of the oulk befor Palme Sondag, the faid Mr Robert paf first over to the faid George Bofuallis houfe ; and the faid Archibald followit him, and paf vp to the vpper Eifter chalmers of the faid ludgeing, quhair the faid Mr Robert Abircrombie faid ane Mefs : And ye, the faid Archibald, wilfullie and willinglie (being of the trew Religioun befor your away-paffing furth of this cuntrie, and in your abfence furth of the famyn, made defection thairfra to Romifch Religioun), hard the faid Mefs, and reffaut the Communion after the Romane maner ; and conceillit the faying and heiring thair of, quhill ye was challanget. For the quhilk wilfull heiring of the faid Mefs and conceilling thair of, ye, the faid Archibald, being convict of the famyn, befor the Juftice-generall and his deputis, be Act of Parliament, ye aucht to be pwneifchet to the daith ; and your haill moveabill guidis and geir efcheit to our fouerane lordis vfe : To the takin,¹ ye haif confeffit the haill premisses to be of veritie, be your Depositiones, fufberyuit with your hand ; quhilk ye can nocht deny.

VERDICT. The Affyfe, be the mouth of James Nicolfoune, tailzeour in Edinburghe, chancellor, ffand, pronuncet and declairit the faid Archibald to be ffylet, culpabill and convict of the Wilfull heiring of Mefs, wittinglie and willinglie, but² compulfion ; and conceilling of the fame, quhill he was challanget ; accoirding to the faid Dittay, and accoirding to his Confessioun maid thair of in judgement, and Depositiones producet, fufberyuit with his hand.³

[*Mr Willame Hairt, Juftice-Depute.*]

Slaughter—Horse and Cattle-stealing, &c.

May 15.—**JOHNNE BATIESOUN**, alias *Jok of the Scoir* ; Archibald Batiesoun, alias *Prik it vp Archie*, brother to the faid Johnne ; and Adie Batiesoun, brother to the faid Johnne and Archie.

JOK OF THE SCOIR, dilatit, ffor airt and pairt of the flauchter of vniq^{le} Willame Tuedie of Olipher and thiftious fteilling of ane grit number of ky, oxin and naigis furth of Tueddell ; committit threttie yeir fyne, or thairby. **ITEM**, ffor airt and pairt of the fteilling of foure naigis furth of Sandiehillis ; and of threfcoir nolt furth of Langvrd. **ITEM**, ffor airt and pairt of the fteilling of four ky and tua horfe, with certane inficht, furth of Bankend in Craufurd-Johnne, pertening to Thomas Weir ; committit tua yeir fyne. **ITEM**, ffor airt and pairt of the fteilling fra William M^ccalla, in Glenbaithe, of ane meir, and certane inficht

¹ In evidence, or testimony whereof.

² Without.

³ The sentence is not recorded.

of his house; and hurting and wounding of the said Williame. ITEM, for airt and pairt of the steilling of tua naigis fra ane fervand of Sir Johnne Keris, furth of the Spittellis. ITEM, for airt and pairt of the steilling of fyftene scoir of ky and oxin, with ane grit number of vther guidis, furth of my Lord zesteris boundis; committit a xvij yeir fyne, or thairby. ITEM, for steilling and away-taking of tua naigis fra Johnne Symfoun, with his cloik, quhinger and purse, quhairin thair was xxx s. ITEM, for cowmoun thift and cowmoun reffet of thift. —PRIKIT VP ARCHIE, dilaitit of airt and pairt of the thiftious steilling of fourtie nolt, furth of the Schereff of Airis boundis; and hurting and wounding of ane fervand of the Schereffis, in redding thair of. ITEM, for airt of the steilling of tuentie naigis furth of Sandiehillis fra the puir cadgeris;¹ committit a thre yeir fyne: And for airt and pairt of the Slauchter of ane of the puir cadgeris, at that samyn tyme. ITEM, for airt and pairt of the steilling of sax nolt furth of the Nethir Snab; committit aicht yeir fyne, or thairby. ITEM, for airt and pairt of the steilling of ane grit number of scheip furth of Brigend, pertening to the Laird of Fawfydes fervandis. ITEM, for airt and pairt of the steilling of xxxij oxin furth of Lammernure, pertening to the Laird of Innerleith. ITEM, for cowmoun thift and cowmoun reffet of thift, &c.—ADIE BATESOUN, dilaitit for airt and pairt of the Slauchter of vmq^{le} Johnne Naper, in company of the said Johnne his brother; and steilling of ane grit number of ky and oxin furth of Clydheid. ITEM, for airt and pairt of the steilling of the said Williame Mcall his meir, and haill inficht of his house; and hurting of the said Williame. ITEM, for airt and pairt of the steilling of ten scheip furth of the Hill-hous of Clyde, fra Gilbert Johnnestones men; committit a yeir fyne. ITEM, for the steiling of tua naigis a foure yeir fyne, furth of Sandiehillis, fra certane puir cadgeris. ITEM, for cowmoun thift, cowmone reffet of thift, outputing and inputing of thift, fra land to land, fra cuntrey to cuntrey, baith of auld and of new.

VERDICT. For the quhilkis crymes, the saidis thre perones wer put to the knowlege of ane Assyse, and thai all, in ane voce, be the mouth of Donald Thornetoun, burges of Edinburghe, chancellor, stand, pronuncet and declairit the saidis Johnne, Archie and Adie Batiesounes to be ffylit, culpabill and convict of the crymes aboue specifeit, accoirding to thair Depositiones, gevin vp be thame thair of, and Confessioun of the samyn in Judgement.

SENTENCE. To be tane to the mercait croce of Edinburghe, and thair to be hangit on ane gibbet, quhill thai be deid; and thair haill moveabill guidis to be escheit and inbrocht, &c.

¹ The Carriers, who, for hire, transported goods on pack-saddles, &c. By means of this useful class, most part of the merchandise and heavy carriages were conveyed to all parts of the kingdom. They usually travelled in companies, for mutual protection; but were often overpowered, and in many cases slain, in faithfully defending the property committed to their charge.

[*Mr Williame Borthuik, Justice-Depute.*]

Slaughter—Bearing and Wearing of Pistolets.

May 16.—HECTOUR TRUMBILL of Lylflie (Lilliesleaf.)

Dilaitit for airt and pairt of the Slauchter of vmq^{le} Thomas Ker (of Craling), brother to the Laird of Farnihirst, and George Glaidner, his fervand : And for contravening of our fouerane lordis Actis of Parliament, in beiring and weiring of Pistolettis : And vtheris crymes contenit in our fouerane lordis letteris direct thairvpoun.

Hectour Trumbill of Belfis vnlawit and amerciati, as cautioner, for nocht entrie of the said Hectour, in the panes contenit in the Actis of Parliament ; and the pannel adiudget to be denuncet rebell and put to the horne, and all his moveabill guidis to be efcheit, as fugitiue fra his hienes lawis for the saidis crymis.

Slaughter.

May 18.—WILLIAM STEWART, brother to my Lord Vchiltrie, Williame Stewart, sone to Sir Williame Stewart of Carstairs, kn^t.

Dilaitit for the Slauchter of vmq^{le} Robert Cathcart, wryter.¹

Maufe Aikman, relict of the said vmq^{le} Robert, producet our fouerane lordis letteris, deulie execute ; and offerit hir selff reddie to persew.

THE JUSTICE continewis to the thrid day of the nixt Justice-air of Air, quhair thay duell, or sone vpon xv dayis wairning. Andro Lord Stewart of Vchiltrie and James Stewart of Lekprevik, become pleges and fouerties, coniunctlie and feuerallie. Johnne Grahame of Knokdoliane relieved of his caution.

[*Mr Williame Hairt, Justice-Depute.*]

Slaughter.

Jun. 6.—WILLIAM MYDDILMEST of Lillie-Chappell and James Myddilneft, his brother-germaue.

Dilaitit for airt and pairt of the Slauchter of Thomas Ker of Craling, &c.²

Thomas Trumbill of Mynto, as cautioner, vnlawit in the pane of ane thousand merkis and four hundreth merkis for nocht entrie of the saidis pannels. The Justice ordainit thame to be denuncet rebell and put to the horne, and all thair moveabill guidis to be efcheit, &c.

Murder of the Laird of Warristoun—Punishment of breaking on the Wheel.

[FEW Cases of MURDER have excited so lively an interest in the public mind, at the time of their occurrence, as that of THE LAIRD OF WARRISTON. He was a person of considerable note in Edinburgh, and nearly connected with the ancient family of Kincaid of that ilk in Stirlingshire, then in

¹ See Mar. 4, 1600.

² See May 16, 1604.

possession of extensive estates in the counties of Edinburgh, Linlithgow, &c. JEAN LIVINGSTON, the young and beautiful murderess, was likewise a person of considerable rank, being a daughter of John Livingstone of Dunipace, and related to many of the first Families in Scotland.

The property of Warriston being situated about a mile from the City of Edinburgh, news of the Murder instantly reached the proper authorities. Officers were dispatched, who succeeded in taking, 'red-hand,' 'THE LADY WARRISTOUN,' 'the fause nourife,' as usual, the prime mover of this deed of darkness and treachery, and her two 'hyred women.' Weir alone, the actual perpetrator, escaped for a time, having refused to take the Lady along with him, in his flight; saying, 'You shall tarry still; and if this matter come not to light, you shall say, "he died in the gallery," and I shall return to my Master's service: But if it be known, I shall fly, and take the cryme on me; and none dare pursue you!' Being taken 'red-hand,' the parties were immediately put to the knowledge of an Assise (without the formality of serving a Dittay, &c., as in ordinary cases), before the Magistrates of Edinburgh; or the Trial may have perhaps taken place before the Baron-bailie of the Regality of Broughton, within whose jurisdiction the property of Warristoun was situated, and sentence of death was passed upon them. Unfortunately, the greater part of the Criminal Records of the City of Edinburgh are lost; and, after many fruitless searches, no trace of the proceedings in these Cases can now be elsewhere obtained. The result is thus briefly and quaintly stated by two contemporaneous writers:— 'JOHNE KINCAID of Waristoun murderit be his awin wyffe and fervant man; and her nurishe being also upone the conspiracy: The said gentilwoman being apprehendit, scho was tane to the Girth-croffe,¹ upon the 5 day of July, and her heid struk fra her bodie, at the Cannagait-fit; quha deit very patiently. Her nurishe wes brunt at the same tyme, at 4 houres in the morning, the 5 of July.—*Birrel's Diary*. 'UPON Fryday the 4 (5) of July,² (1600) THE LADY WARISTOUN, daughter to the Laird of Dunipace, was beheaded in the Cannogate, for the Murther of her husband. The Nurfe and ane hyred woman, her complices, were burnt in the Castlehill of Edinburgh. The horse-boy fled, being guiltie.'—*Calderwood's Church History*, MS. Advocates' Library.

An authentic and extremely interesting 'MEMORIAL' of her 'Conversion,' 'with an account of her carriage at her Execution,' was privately printed, in small Quarto, pp. 48, Edinburgh, 1827, from a paper preserved among Wodrow's MSS. in the Advocates' Library, by Charles Kirkpatrick Sharpe, Esquire, to whose learning, ingenuity, and high accomplishments, the Public has been so often indebted. The very limited impression of this *morceau recherché*, may plead the Editor's apology for stating, as briefly as possible, that this 'Tractate' is entitled, 'A Worthy and Notable Memorial of the great Work of Mercy, which God wrought in the Conversion of Jean Livingston Lady Warristoun; who was apprehended for the vile and horrible Murder of her own husband, John Kincaid; committed on Tuesday, July 1, 1600; for which she was execute, on Saturday following: Containing an Account of her obstinacy, earnest repentance, and her turning to God; of the odd speeches she used, during her imprisonment; of her great and marvellous constancy; and of her behaviour and manner of her death: Observed by one who was both a seer and hearer of what was spoken.' From internal evidence, the writer seems to have been Mr James Balfour, the colleague of the notable Mr Robert Bruce. They were the appointed Ministers, in the North-west part of Edinburgh.

¹ The Cross, situated near the *girth*, or sanctuary of Holyrood, an ancient place of refuge, and still affording protection to debtors, when properly registered; who have liberty to walk within the precincts, free from the molestation of their creditors.

² It is probable that the sentence bore, that the pannels should be executed on the evening of Friday the 4th day of July. The subsequent early execution, at sunrise next morning, was effected, at the solicitation of the family of Dunipace, who indecently urged the Magistrates precipitately to lead Lady Warristoun to the scaffold, before sunrise, shortly after three o'clock in the morning. Owing to a plan, evidently preconcerted, the 'nourishe' and 'hyred woman' were burnt on the Castlehill at four o'clock, so that the populace, who might be so early astir, should have their attentions distracted at two opposite stations, nearly a mile apart from each other, and thus, in some measure, lessen the disgrace of the public execution. It is recorded that the Laird of Dunipace behaved with much apathy towards his daughter, whom he would not so much as see previous to her execution; nor yet would he intercede for her, through whose delinquency here reckoned his blood to be for ever dishonoured.

A great portion of this Memorial is occupied with a very affecting account of the state of her mind, and a faithful and striking delineation of its gradual opening and developement, through the patient and affectionate attentions of her spiritual advisers, from a state of perfect callousness and indifference to every thing connected with Religion and the awful situation in which she was placed, to perfect resignation to her fate, and a cheerful, but unfeigned repentance for all her past offences and crimes. So far as relates to her *CONFESSION*, it cannot be better related, than by quoting her own energetic words.—‘ I think I hear presently the pitifull and fearfull cryes which he gave when he was strangled ! And that vile sin which I committed, in murdering mine own husband, is yet before me. When that horrible and fearfull sin was done, I defyed the unhappy man who did it, (for my own part, the Lord knoweth I laid never my hands upon him to do him evil ; but as soon as that man gripped him and began his evil turn, so soon as my husband cryed so fearfully, I leapt out over my bed, and went to the Hall ; where I sat all the time, till that unhappy man came to me and reported that mine husband was dead ;) I desired him, I say, to take me away with him ; for I feared Tryall ; albeit flesh and blood made me think my father’s moen¹ at Court would have saved me !’ ‘ As to these weemen who was challenged with me, I will also tell you my mind concerning them. God forgive the Nurse, for she helped me too well in mine evill purpose ; for when I told her that I was minded to do so, she consented to the doing of it ; And upon Tuesday, when the turn was done, when I sent her to seek the man who would do it, she said, “ I shall go and seek him ; and if I get him not, I shall seek another ! And if I get none, I shall do it myself !” (This the Nurse also confessed, being asked of it before her death.²) ‘ As for the other two weemen, I request that you neither put them to death, nor any torture, because I testify they are both innocent ; and knew nothing of this deed before it was done, and the mean time of doing of it : And that which they knew, they durst not tell, for fear ; for I had compelled them to dissemble. As for mine own part, I thank my God, a thousand times, that I am so touched with the sense of that sin now : for I will confesse this also to you, that when that horrible Murder was committed first, that I might seem to be innocent, I laboured to counterfeite weeping ; but do what I could, I could not find a tear : And so now I suffer ; for the Lord would not have that high sin concealed, but would have it manifest, as it is his gracious will to be done.’

Owing to the rank of Lady Warristoun, and the powerful influence of her father and his friends, the *manner* of her death was, on their intercession, mitigated to decapitation by the well-known ‘ Maiden.’ The usual form of death, for females, in such cases, was of the most ignominious and shocking description,—burning, after being strangled at a stake,—and in atrocious instances, the Criminal was ‘ brunt quick !’ A very unbecoming zeal was displayed by her relations, to have her executed as *privately* as possible, and at such a time as would be unknown to the populace. They had first intended and applied for the unusual hour of 9 o’clock on Friday evening, as the time for her execution ; which, however, was overruled. The ‘ Memorial’ states, that, ‘ After 3 o’clock in the morning, upon Saturday, the Magistrates wer brought into prison by her friends,³ to take her forth to suffer. Amongst them, some were too earnest to hast her away, that she might be execute, before any should know of it ; albeit she was far otherwise minded, herself ; for she purposed not to have gone forth till between 5 and 6 in the morning. On this, many, whom I will not name, came and said, “ Will you deprive God’s people of that comfort which they might have, in that poor woman’s death ? And will you obstruct the honour of it, by putting her away, before the people rise out of their beds ? You do wrong in so doing ; for the more publick the death be, the more profitable it shall be to many ; and the more glorious, in the sight of all who shall see it,” &c. The Magistrates granted also, that she might stay till sun-rising ; but her friends⁴ were so importunate that it was not granted !’

The youth and beauty of Lady Warriston have been much expatiated upon, in the whole of the

¹ Fr. ‘ *moyen*,’ influence, interest.
before the burning of the Nurse.

² This is remarked by the writer, for the Lady Warriston was beheaded
³ Relations.

⁴ Blood-relations.

numerous popular ballads which were made on this occasion; several of which are *still* sung and recited in various parts of Scotland! To those who feel curiosity in such matters, reference may be made to *Jamieson's Ballads*, I., 109, *Kinloch's Ancient Scottish Ballads*, p. 49, *Buchan's Ballads*, I., 56, &c.—Although, as the ‘Memorial’ expresses it, she was ‘but a woman and a bairn, being the age of 21 years,’ ‘in the whole way, as she went to the place of Execution, she behaved herself so cheerfully, as if she had been going to her wedding, and not to her death! When she came to the scaffold, and was carried up upon it, she looked up to the Maiden with two longfome looks, for she had never seen it before, &c. This I may say of her, to which all that saw her will bear record, that her only countenance moved,¹ although she had not spoken a word! For there appeared such a majesty in her countenance and visage, and such a heavenly courage in her gesture, that many said, “That woman is ravished with a higher spirit than a man or woman’s!”’

‘*The summe of her* CONFESSION, which almost was in a form of words, upon the four parts of the scaffold, to which she presented herself, was this.²

“THE occasion of my coming here, is to shew that I am, and have been a great sinner, and hath offended the Lord’s Majesty; especially, of the cruell murdering of mine own husband; which, albeit I did not with mine own hands, for I never laid mine hands upon him all the time that he was murdering; yet I was the diviser of it, and so the committer! But my God hath been alwise mercifull to me, and hath given me repentance for my sins; and I hope for mercy and grace at his Majesty’s hands, for his dear son Jesus Christ’s sake. And the Lord hath brought me hither to be an example to you, that you may not fall into the like sin as I have done: And I pray God, for his mercy, to keep all his faithfull people from falling into the like inconvenient as I have done! And therefore, I desire you all to pray to God for me, that he would be mercifull to me!”’

Her conduct on the scaffold appears to have been most heroic. After her devotional exercises were completed, ‘then came to her one of her friends, with a clean cloath, to bind about her face.’ To the fastening thereof, she took out of her mouth a pin, and gave it out of her own hand. The minister, after receiving her last farewell, ‘could not abide longer beside her; but immediatly left the scaffold and departed. But she, as a constant saint of God, humbled herself on her knees, and offered her neck to the axe, laying her neck, sweetly and graciously, in the place appointed; moving to and fro, till she got a rest for her neck to lay in. When her head was now made fast to the Maiden, the Executioner came behind her, and pulled out her feet, that her neck might be stretched out longer, and so made more meet for the stroak of the axe; but she, as it was reported to me by him who saw it, and held her by the hands at this time, drew her leggs twice to her again, labouring to sitt on her knees, till she should give up her spirit to the Lord! During this time, which was long, for the axe was but slowly loosed, and fell not down hastily; after laying in of her head, her tongue was not idle, but she continued crying to the Lord, and uttered with a loud voice, those her wonted words, “Lord Jesus, receive my spirit! O, Lamb of God, that taketh away the sins of the world, have mercy on me! Into thy hands, Lord, I commend my soul!” When she came to the middle of this last sentence, and had said, “Into thy hand, Lord,” at the pronouncing of the word “LORD,” the axe fell; which was diligently marked by one of her friends, who still held her by the hand, untill this time, and reported this to me.”]

JUN. 26.—ROBERT WEIR, sumtyme fervande to the Laird of Dynniepace.³

Dilaitit of airt and part of the crewall Murthour of vinq^{le} Johnne Kincaid of Warieftoune; committit (on Tuesday) the first of Julij, 1600 yeiris.

PERSEWERIS.

Patrik Kyncaid, tutour of Warieftoune, Thomas, Archibald and Adame Kyncaid, all brether to the defunct.

¹ Her countenance alone would have excited emotion, although, &c.

² That is, she repeated her Declaration or Confession at each of the four corners of the scaffold; which was a stage or platform erected in the centre of the street, at the foot of the Canongate, near the Girth-cross.

³ On the margin, ‘Convict and brokin on the row,’ (*wheel*.)

ASSISA.

George Dewar in Pleafance,	David Hoipis fynyth,	John Couttis fkyner,
Johne Gairdner thair,	Henrie Kello in Leyth-wynde,	William Chalmer in Brochtoun,
Johne Henderfoun thair,	Johne Roger, Maifter of fence,	John Myller in the Canno-mylne,
James Nicolfoun tail ⁵ our,	Robert Taillifeir maltman,	Williame Bannatyne thair,
Johne Airmour merchand,	Thomas Galloway of Cairnehill,	George Roife thair.

The Affyse cheiffis Thomas Galloway chancellor.

QUHILKIS perfones of Affyse, being chofin, fworne and admittit, efter accusatioun of the faid Robert Weir, be Dittay, of the crymes following, to witt : FOR-SAMEKILL as vmq^{le} JEANE LEVINGSTOUNE, Guidwife of Warieftounne, haifing confauet ane deidlie rancour, haitrent and malice aganis vmq^{le} Johnne Kincaid of Warieftounne, for the allegit byting of hir in the arme, and ftreking hir dyuerfe tymes, the faid Jeane, in the moneth of Junij I^m.Vj^e. yeiris, directit Jonet Murdo hir nwreife to the faid Robert, to the Abbay of Halyrudhous, quhair he was for the tyme, defyreing him to cum down to Warieftounne, and fpeek with hir, anent the crewall and vnnaturall taking away of hir faid hufbandis lyfe. And the faid Robert haifing cum down twyfe or thryfe to the faid vmq^{le} Jeane, to the faid place of Warieftounne, he could get na fpeich of hir. At laft, the faid vmq^{le} Jeane, vpone the firft day of Julij, 1600 yeiris, directit the faid Jonet Murdo hir nwreife to him, defyreing him of new agane to cum down to hir ; quhairto the faid Robert grantit : Lykas, at eftir none the faid day, the faid Robert cam to the faid place of Warieftoun, quhair he fpak with the faid vmq^{le} Jeane, and conferrit with hir, concerning the crewall, vnnaturall and abhominable murdering of the faid vmq^{le} Johnne Kincaid. And for performance thairof, the faid Robert Weir was fecreitlie convoyit to ane laich feller, within the faid place, quhairin he abaid quhill mydnycht : About the quhilk tyme, he, accompaneit with the faid vmq^{le} Jeane Levingftoun, cam furth of the faid laich feller vp to the hall of the faid place, and thairfra cam to the chalmer quhair the faid vmq^{le} Johnne was lyand in his bed, takand the nyctis reft ; and haifing enterit within the faid chalmer, perfaveing the faid vmq^{le} Johnne to be walknit out of his fleip, be thair dyn, and to preife ouer his bed ftek, the faid Robert cam than rymmand to him, and maift crewallie, with thair faldit neiffis gaif him ane deidlie and crewall ftraik on the vane-organe,¹ quhairwith he dang the faid vmq^{le} Johnne to the grund, out-ouer his bed ; and thaireftir, crewallie ftrak him on his bellie with his feit ; quhairvpoun he gaif ane grit cry : And the faid Robert, feiring the cry fould haif bene hard, he thaireftir, maift tyrannouffie and barbarouffie, with his hand, grippit him be the thrott or waifen, quhilk he held faft ane lang tyme, quhill he wirreit him ; during the quhilk tyme, the faid Johnne Kincaid lay ftruggilling and fechting in the panes of daith vnder him.² And fa, the faid vmq^{le} Johnne was crewallie

¹ The jugular vein. It has often, but improperly, been supposed to signify the flank or iliac vein.

² This is precisely the mode which was, more than two centuries afterwards, adopted by the infamous

murdreift and flaine be the said Robert ; and he is airt and part thair of : As at mair lenth is contenit in the said Dittay.

VERDICT. The Assyse, all in ane voce, be the mouth of the said Thomas Galloway, chancellor, chofin be thame, stand, pronuncet and declairit the said Robert Weir to be flylit, culpable and convict of the crymes aboue specifeit, mentionat in the said Dittay ; and that in respect of his Confessioun maid thair of, in Judgement.

SENTENCE. The said Justice-depute, be the mouth of James Sterling, dempster of Court, decernit and ordanit the said Robert Weir to be tane to ane skaf-fold, to be fixt belyde the croce of Edinburgh, and thair to be brokin upoune ane Row,¹ quhill he be deid ; and to ly thairat, during the space of xxiiij houris. And thaireftir, his body to be tane vpon the said Row, and set vp, in ane public place, betuix the place of Wareftoun and the town of Leyth ; and to remane thairupoune, ay and quhill command be gevin for the buriall thair of. Quhilk was pronuncet for dome.

Burning of House of Langholm — Horse and Cattle Stealing, &c.

Jan. 11, 1605.—INGRIE AIRMESTRANG, in Inzieholme ; Archie Airme-strang, *the Mercheand*, in the Hoilhous ; Niniane Arme-strang, in Tortwne ; Johnne Arme-strang, in the Hoilhous ; Johnne Michelfoun, in Tortwne ; Cristie Airme-strang, thair, callit *Naysé Cristie* ; Johnne Thomefoun, in Dwnescheilburne ; Archibald Arme-strang of Flaskholme ; Archibald Arme-strang, callit *Naysé Archie* ; Niniane Airme-strang, callit *Roweis Niniane*, in Murthome ; Cristie Airme-strang, sone to the Guidman of Langholm (Johnne Airme-strang ;) Mathow Twrnour in Hoilhous, and Johnne Couthird.

Dilaitit for airt and pairt of the tressonable Burning of the House of the Langholm ; and taking of Harbert Maxwell of Cavenfe captiue and prissoner : And for the thiftious steilling of certane horse, molt, scheip, gait : And burning of certane coirnis, pertening to the said Harbert, Alexander Bell in Eikinhohne, William Bell in Gallofyde and George Irwing in Holmeheid ; committit in the

Burke and his gang, at the West-port of Edinburgh, to suffocate the wretched victims of their hellish traffic. The quaintness of the ancient style even aggravates the horror of the scene.

¹ The cruel and horrible punishment of death on the wheel, has ever been very infrequent in Scotland. Weir was literally broken upon a *cart-wheel*, as appears by the following entry in Robert Birrel's Diary : ' Robert Weir broken on ane cart-wheel, with ane coultter of ane plench, in the hand of the hangman, for murdering the Laird of Warriston, quhilk he did, 2 Julii 1600.' The case of Weir is the first recorded instance of such punishment having been inflicted. This lingering and agonizing manner of execution, borrowed from the practice of France, Germany, &c. had perhaps been suggested by the unprovoked and barbarous nature of the murder. It was well calculated to make a deep impression on the minds of the people, corresponding in some measure to the great excitement created in the public mind, by the occurrence of a deed of so deep a die, and perpetrated so near to the metropolis.

moneth of September, I^m.V^c. fourfcoir ane yeiris ; and vtheris crymes fpecifeit in our fouerane lordis letteris.

PERSEWARIS, Harbert Maxwell of Kavenfe, Alexander Bell in Ekieholme, Williame Bell in Gallofyde, George Irrving in Holmeheid.

PRELOCUTOR for the pannell, Mr Johnne Ruffell, (advocate.)

It is allegit be the pannell, that be the lawis and Actis of Parliament, in all eriminall actiones, the pairtie defender aucht to haif ane autentik coppie of the Dittay and contentis of the fummondis : Bot trew it is, that thair is na coppie delyuerit to the defenderis, bot only tikkettis ; and for verifeing thair of, producet the faidis tikkettis, viz. four in nmber : And thairfoir na proces.

THE JUSTICE repellis the allegiance, in refpect of the executiones.

The pannell askis instrumentis, that the Guidman of Kavenfe abydis at the letteris and executionis, and of the vſing thair of.—It is allegit, that Johnne and Criſtie Airmeftrangis, defenderis, the tyme lybellit of the crymes lybellit, war within yeiris (*in minority*;) the faid Johnne of the age of viij yeiris, and Criſtie of the age of foure yeiris ; and fa war nocht *doli capaces* ; and be the law of this realme, can nocht be put to the tryell of ane Affyſe.

The haill perfeweris, vnderſtanding that Archie Airmeftrang *the mercheand*, Agnes Criſtie Airmeftrang and Anneis Archie ar Innocent of the crymes lybellit, paſſis fra thame: Quhairupoune thay askit instrumentis. The perfeweris alſo paſſis fra Roweis Niniane Airmeftrang *fimpliciter* ; quhairnpon he askit instrumentis.

Mr Airthour Scott of Newburcht and Gemilſclench become pledge and fouertie that Harbert Maxwell, his wyfe, bairnis, &c. fall be harmeles and ſkaythles in thair bodeis, landis, guidis and geir of the ſaidis Johnne and Criſtie A., ſones to Johnne A. of the Langholme ; the faid Johnne vnder the pane of ane thowſand pundis, and the faid Criſtie vnder the pane of fyve hundreth pundis.

Continued to the air of ‘ Dumfreis, tertio Itineris, (vel ſuper premonitione) xv dierum.’ (See Vol. II. p. 479.)

Burning the Caſtle of Langholme, &c.

Jan. 11.—JOHNNE AIRMESTRANG of Langholme.

Dilaitit of airt and pairt of the treſſonabill Raiſing of fyre about Harbert Irwingis hous in Murthholme, and burning ane grit pairt thair of : And lykwayis for airt and pairt of the treſſonabill Raiſing of flyre at the Caſtell of Langholme, and burning of ane grit pairt of the barnes, byres, ſtables and vther office-houſſis of the faid Place of Langholme : And burning of the haill inſicht pleneiffing being thairin ; togidder with thre barnes full of beir and corne ; and xxiiij ſtakkis of corne, ſtanding in the barne yaird ; and fourfcoir dargis¹ of hay, with

¹ Darg uſually ſignifies a day’s work, as much as one man can accompliſh in a day, or ‘ *dayis-work*.’

ane kilfull¹ of malt : And for airt and pairt of the thiftious steilling of threttie nolt, with fax or fevin horfe and naigis, furth of the said Place of the Langholme : Quhilkis all and findrie guidis, geir, coirnes, horfe, nolt and remanent guidis, pertenit to Harbert Maxwell of Kavenfe : committit be the said Johnne, the moneth of September, I^m.V^c. fourfcoir ane yeiris: And sielyk, for airt and pairt of the tressonabill vsurpation of his Maiesteis autoritie vpon him, in taking in of the said Harbert Maxwell of Kavenfe captiue and prissoner ; and transporting him in England, at the tyme foirsaid. ITEM, for Burning of Williame Bellis house in Gallowfyde, with tua barnes full of beir, and tua slakkis of aittis standing in his barne-3aird : AND for the thiftious steilling fra him of tuentie nolt, threfcoir scheip and tuentie gait, &c. ITEM, for Burning of Alexander, Richerd and Fergie Bellis houffis in Dikinholme, and steilling threfcoir nolt, tua hundreth scheip and threfcoir gaittis : ITEM, for Burning and destroying of David and George Irwingis duelling houffis in Holmeheid, with fax barnes full of beir and corne, and aucht roukis of corne, standing in thair corne-3aird, and tuentie dargis of hay ; committit the tyme foirsaid ; vpoun set purpois and prouisioun.

Sir James Johnnestoun of that Ilk of Dunskeillie, kny^t, as cautioner, vulawit and amerciast in the pane of ane thousand merkis money.—The Justice adjudget the said Johnne Armeistrang of Langholme, to be denuncet our souerane lordis rebell, and put to the horne ; and all his moveabill guidis to be escheit, &c.

Resetting Denounced Rebels, &c.—Resisting his Majesty's Guard.

Mar. 12.—RINGANE² AIRMESTRANG, callit *New-maid Ringane*, and Will Airmestrang of Rowan-burne.

Dilaitit of contravening the Actis of Parliament, in Resetting and assisting the Kingis Maiesteis rebellis, &c.

DITTAY *at the instance of Sir Thomas Hammiltoun of Monkland, knyght.*

FORSAMEKILL as it is statute and ordenit be our souerane lordis Actis of Parliament, that nane rebell aganis his Maiesteis persoun nor his autoritie ; and quha sa makis the said rebelloun, falbe pwneist thairfore, eftir the quantitie³ of that rebelloun ; As the said Act beris. And als, be ane ither Act of Parliament, it is statute and ordanit, that na maner of man, within this realme, wittanlie or wilfullie resett, supplie, mantene, defend or do favouris to ony of our souerane lordis rebellis, and att his hienes horne, vnder the pane of deid and confiscation of all thair moveabill guidis ; and to be accusit heirypon att particuler dyettis ; as the said Act beris. And trew it is, that Johnne Murray of Stable-Gortoune, Cuddie of the Bankhous, Cristie of Langholme, Andro of the Langholme and Johnne Baillie of the Scheill, fugitives and outlawis, being denunceit rebellis and att the horne, att the instance of Bernard Lyndsay of the Grange, for nocht making redres and payment to the said Bernard, of the particuler guidis contenit in the Decreit obtenit be the said Bernard aganis thame, for thair maisterfull stouthreiff and Murthoure, committit be thame, viz. For the maisterfull stouthreiff fra Archbald Lyndsay of his horse and armour ; and fra Williame Lyndsay, brother to the Laird of Co-

¹ Kilfull.

² Ninian.

³ Extent, measure.

vintonne, of his horſe and armour; and ffra James Baillie, guid-fone to the Laird of Covintonne, of his hors and armour; and ffra James Lyndſay, of his hors and armour; ffra Jok Braidwod, of his hors and armour; ffra Thomas Fiſcher, of his hors and armour; ffra Robert Gybfoun, of his hors and armour; ffra Williame Thomſoun, his hors and armour; Jok Fiſcher, his hors and armour; Jok Kay, his hors and armour; ffra Alexander Lyndſay, his hors and armour; Johnne Tod, his hors and armour; Robert Kay, his hors and armour; George Brown, his horſe and armour: Cuthbert Boyd, his horſe and armour; Andro Haddo, his hors and armour; Jok Lyndſay of the Myll, his hors and armour; vmq^{le} Johnne Lyndſay and Edward Tynto, thair horſſis and armour: Qnhilkis vmq^{le} Johnne Lyndſay, Edward Tynto, togidder with Symone Fiſcher, ſeruitour to Sir James Hamiltoun of Libbertounne, wer crewallie ſlayne be the ſaidis perſones, in following of thame, to red¹ leill mennis guidis, in oppin day-lycht; the ſaidis rebellis being rynnand ane day forrow² and heirſchip throw the countrey: And Robert Hepburne of Aulderſtounne, Leutenent of his Maieſteis Gaird, accompaneit with ane number of the ſaid Gaird, being direct to aſſiſt and concur with the ſaid Barnard Lyndſay, vpoun the . . . day of Nouember laſtbypaſt, to poynd and diſtreinzie the ſaidis rebellis guidis and geir, for the valour³ of the ſaidis hors and armour, conforme to ane Decreit gewin aganis thame be Andro Lord Stewart of Vchiltrie, Leutenent and Warden of the Weſt Marchis of this realme, in ane Court of Redres, hauldin in the Tolbuith of Drimfreis, the xxix day of December, I^m.V^c.lxxxvij yeiris: It is of veritie, that thay and ather of thame, being foirſene of the ſaid Robertis cuming, thay being accompaneit with the ſaidis rebellis, with convocatioun of our ſouerane lordis liegis, all bodin in feir of weir, with jakis, lanceis and vtheris wappinis, *invaſiue*, raife in hoſtile maner foirſaid, vpon the day foirſaid, at aucht houris before ſone ryſing, within the boundis of Esk,⁴ and thair mantenit, defendit, ſuppleit and aſſiſtit the ſaidis rebellis, and ſett upoun the ſaid Robert Hepburne and remanent his Maieſteis Gaird, in executioun of our ſouerane lordis authoritie, in poynding of the ſaidis rebellis guidis; perſewit thame of thair lyves, and chaiffit thame be the ſpace of aucht myles for thair ſlauchteris: And ſua, thai and ather of thame hes committit maniſeſt rebellious aganis his Maieſteis authoritie; and he (they) oppinlie mantenit and defendit the ſaidis rebellis, being at his Maieſteis horne, for the ſaidis crymes: And thairthrow, hes contravenit the tennour of the ſaidis Actis of Parliament; and the panis thairin contenit aucht to be execute aganis (them.)

The Aduocat takis instrumentis of the ſweiring of the Aſſyſe, and proteſtis for Wilfull Errour, in cais they acquit. The Aſſyſe takis instrumentis of the pannellis Confeſſiounne maid be thame, that thai arraiſe and perſewit the Gaird.

VERDICT. The Aſſyſe, be the mouth of Johnne Weir of Clowburne, chancellor, ſſand, pronunceit and declarit the ſaidis Ringan and Will to be culpabill, ſſylit and convict of the crymes aboue writtin.

SENTENCE. The Juſtice-depute, be the mouth of James Henryfoun, dempſtar of Court, decernit and ordenit the ſaidis Ringan and Will to be tane to ane gibbet beſyde the mercat croce of Edinburgh, and thair to be hangit quhill thay wer deid; and all thair movabill guidis to be eſcheit, &c.

‘Falſet’ — Perjury — ‘Man-swearing’ — Cruel Oppression.

Mar. 15.—ALEXANDER CHENE, in the Haltoun of Balhalvie, Alexander Waſtland, his ſerveand, and Alexander Croy, ſeruitour to the Laird of Auchterallane.

¹ To get restoration, &c. ² Literally, running a day-foray through the country, openly carrying on their violence and depredations in broad daylight. ³ Value, ‘*avail*.’ Lat. *valor*. ⁴ Eskdale.

Dilaitit of Periurie and menfweiring of thame felffis, in prefens of the Lordis of Secreit Counfall.

DITTAY, *at the inflance of Sir Thomas Hammiltoun of Monkland, Aduocat.*

FORSANEKILL as thay and thair complices, being perfewit befor the Lordis of his hienes Secreit Counfall, ffor cuning vpoun the xxvj day of December laft, att mydnycht, to George Duncanis duelling hous in Ardo, quhair be, with his wyffe and famelie, wer in peciabil and quyet maner for the tyme, takand the nychtis rest, lipning¹ for na iniurie nor oppreffiou to haif bene offerit to thame; and thair, violentlie brak vp the dur of the faid Georgis duelling hous, enterit thairin, and tuik the faid George and his wyffe, fcho being grit with chyld, out of thair naikit beddis, band thame with coirdis, and maift crewallie and vnmercifullie, but² pitie or compaffioun of the faid Georgis wyffis eftait, fcho being grit with chyld, as faid is, ftrak and dang thame with rounGIS³ and batounis brocht with thame for the purpoife; fa that the faid George wyfe almaiſt pairtit with bairne; and haifing maift ſchamefullie ſtrukin and leiſchit the faid George him ſelff with beltis: Committing thairby maift oppin Oppreffioune. For the quhilk Oppreffioune, the faid George, haifing rafit oure ſouerane lordis Letteris, and thairwith ſummond the faid Alexander Chene to compeir before the Lordis of his hienes Secreit Counfall, the fourtene day of March instant, to anſuer to the faid Complaint; and haifing, be vertew of the faidis Letteris, lykwyfe ſummond the faid Alexander Waſtland and Alexander Crag to beir witneſſing in the faid mater; quhom the faid Alexander Chene, haifing fallſie ſubornit to periure and menſweir thame ſelffis, to depone fallſie aganis thair knowledge and conſcience in the faid mater, and to conceill the treuth thairof: The faid Alexander Chene and remanent perſounes, compeirand before the Lordis of Secreit Counfall, the faid xiiij day of March instant, and being deiplie ſworne, be thair grit aithis, to depone and tell the treuth in the faid mater, and to beir leill and ſuithfaſt witneſſing thairin; being vnmyndfull of thair dewtie towardis God, and haifing na regaird nor reverence to our ſouerane lordis auctoritie and lawis, and his hienes maift honorabil Counfall, fallſie, be thair Depoſitiounes, Periureit and Menſweir thame ſelffis; the faid Alexander Croy and Alexander Waſtland deponing, that thay wer nather preſent att the faid deid, nor knew nathing in the faid mater; and the faid Alexander Chene, be his Depoſitiounis, declairit, that he ſould be content to be hangit,⁴ in caice it ſould be provin or tryit that he ftrak the faid George Duncan or his wyffe: And lykewyfe denying that he had ſubornit the faidis witneſſis, or inſtructing thame to deny or conceill the treuth: AND nochtwithſtanding thairof, the faid Alexander and the faidis witneſſis being re-examinat, hes all deponit that thay wer all preſent att the faid fact and Oppreffioune, and that the faid Alexander Chene ftrak the faid George Duncane with ane rung, and beltit him naikit with ane ſword-belt; and wer all preſent att the faid maniſeſt Oppreffioune: And als confeſſit, that the faid Alexander Chene had inſtructit, ſeducit and ſubornit the faidis Alexander Croy and Alexander Waſtland to Periure and Menſweir thame ſelffis, and depone before the Lordis of Secreit Counfall, that thay wer nocht preſent with him att the faid fact, and knew na thing thairof: AND SA, thay and ilk ane of thame hes nocht only committit maniſeſt Oppreffioune be the faid fact and hes Periureit and Menſworne thame ſelffis: bot als, hes committit maniſeſt falſet; and as periureit and fals perſonis ar nocht worthie to leve; aucht and ſould be pwneift, conforme to the Lawis of this realm and to the Commoun-Law; in terrou and example of vtheris faull-les⁵ perſounes, to commit the lyke Periurie and falſet in tyme cuning.

ASSISA.

Robert Hog, ſumtyme ſeruitour to my Lord of Marſchell, Johnne Ramſay of Quhytehill,
 Dauid Wod, brother to the Laird of Balbegnocht, James Stewart, agent for my Lady Atholl,
 Robert Crawford of Caverhill, Johnne Mowbray, portioner of Crawmond.

The remainder are burgeſſes, &c.

¹ Trusting that no injury, &c. ² Without. ³ Cudgels. ⁴ Other instances are on record of witnesses perjuring themselves, and making this awful asseveration, being *taken at their word*. ⁵ Soul-less, devoid of conscience.

VERDICT. The Assise, be the mouth of the said Johnne Ramsay, chancellor, fand, pronunceit and declairit the pannell to be ffylit, culpable and convict of the crymes aboue writtin, conforme to thair Depositionis and Confessioun.

SENTENCE. The Justice-depute, be the mouth of James Stirling, dempstar of Court, decernit and ordained the said *Alexander Chene* to be tane to the mercat croce of Edinburghe, and thair his heid to be strikin fra his body: And the said *Alexander Wajiland* to be tane to ane gibbet befyde the mercat croce of Edinburghe, and thair to be hangit quhill he be deid: And the said *Alexander Croy* to be fkurgeit throw the toune; as he that fyrst confest the veritie: And all thair movable guidis to be efcheit and inbrocht to our souerane lordis vse, as fugitiue fra the lawis for the saidis crymes.

Slaughter.

Mar. 28.—JOHNNE SPOTTISWOID OF THAT ILK.

Dilaitit for airt and pairt of the felloun and crewall Slauchter of vmq^{le} Thomas Quhippo of Leyhouffis; committit in the moneth of Junij, the yeir of God I^m.V^c.lxxxxv yeiris; vpoun set purpois, provisioun and foirthocht felony.

James Tennant of Lynhous, as fouertie, ordanit to be vnlawit and amerciati in the pane of ffyve hundreth merkis for nocht entry of the said Johnne, to vnderly the law, &c.; and als, adiudget the said Johnne to be denunceit our souerane lordis rebell and put to his hienes borne, and all his moveabill guidis to be efcheit, &c.

Messenger Forgeing and Signeting False Letters and Executions, &c.

Mar. 28.—WILLIAME STRAUCHANE, messenger.

Dilaitit ffor the ffalshefeing, fforgeing, Counterfuteing, devyfeing, subferyveing and fignetting of foure fals Charges and Executiones, with the Denunciatioun of Hoirning following thairupoune, ffalslie vset and execute be him. Quhilkis charges and denunciatioun, and everie ane of them, are, be Decreit of the Lordis of Sessioun, of the dait the fevint day of Marche instant, civillie and lauchfullie Improvin, and ffund be the saidis Lordis to be ffals and ffeinzeit in thame felffis, &c.

VERDICT. The Assise, be the mouth of Peter McDowell of Machermoir, chancellor, fand, pronuncet and declairit the said Williame (in respect of the said Lordis Decreit, product aganis him, ffinding the saidis Executiones to be ffalfe and ffeinzeit) to be Fylit, culpabill and convict thairof.

SENTENCE. The Justice-depute, be the mouth of James Henderfoun, dempster, decernit and ordanit the said Williame to be fcurget throw this burgh; and to be deprynet of his office of messengerie and notarie, and nevir to vse the samyn in ony tyme cuming; vnder the pane of hanging, but (*without*) fauour; as he that was convict of the crymes aboue writtin.

Hurting — Wounding — Mutilation.

Apr. 9.—PATRIK CARKETTILL of Markill, George Carkettill, his brother, Johnne Broune, brother to the Laird of Colstoun, and Robert Smyth, servand to the said Patrik.

Dilatit of airt and pairt of the Hurting, Wounding and Mutilatioun of James Libbertoun, servand to James Lord of Balmirrienoche of his left eie; and remanent crymes contenit in the Letteris.

PERSEWARIS, James Libbertoun, Mr Thomas Hoip, Aduocat-substitute.

PRELOCUTORIS for the persewer.

The Laird of Henderstoun, Mr Robert Lyntoun, Aduocat-substitute for the Kingis Aduocat. PRELOCUTORIS for the pannel, the Laird of Wauchtoun, the Laird of Innerleyth, the Laird of Craigmiller, Sir Johnne Prestoun of Valafeild, Mr Johnne Russell, Mr Alexander King, Aduocattis.

My Lord President¹ producet the Kingis Maiesteis Warrant; quhair of the tennour followis.

JAMES R.

JUSTICE, Justice Clark and 5oure deutes, We greit 5ow weill. In pe tryell of pe particuler mater persewit before 5ow, at pe instance of James Libbertoun in Neper Libbertoun aganis Patrik Carkettill of Over Libbertoun and his complices, for pe mutulatioun of pe said James; committit be pame in pe moneth of . . . lastbypast: In cais (it) be fund be 5ow that 3e can nocht, for pe present, reffaupe pe tryall of pe said mutulatioun, in respect of pe schortnes of tyme interuening, and before the expyryng of 5eir and day estir pe committing of pe fact; and swa 3e falbe forceit to continew 5our proceeding in pe mater: In quhilk cais, it is our speciall will and pleasour, that 3e fall comand the saidis persounes to enter pair persounes in waird, within pe Castell of Blaknes, thairin to remane, quhill thay be ffynit be our Counfall pair, for pair cryme and offence committit be pame; and frome pame obtene Warrant for pair releif. Quhairanent thir presentis falbe 5our Warrant. Gewin att Grenewiche, this tuentie day of March, 1605.

THE Justice continewis this dyet to the faxtene day of Maij nixtocum; and ordanis the persounes on pannel to entir in waird, within the Castell of Blaknes, within xlvij houris; and to find caution to that effect.²

Sir George Prestoun of Craigmiller, kny^t, become pledge and fouertie, &c.; and that thay fall enter in waird, &c. thairin to remane, and onnawayis to depairt furth thair of, quhill thay be fred be ane Warrant; and that vnder the panes following, viz. ffor the said Patrik ane thousand merkis, the saidis George and Johnne ffyve hundreth merkis, and the said Robert tua hundreth merkis.

Intercommuning with MacGregors.

Apr. 26.—COLENE BRUCE in Middilhauch of Ruthven (Huntingtoun.) Patrik Bruce thair and Alexander Bruce thair.

Dilaitit ffor the tressonable Resfet, Supplie and Intercowmoning with Johnne Dow Galt M^cgregour, Johnne Dow M^cewin M^cgregour and Gregour M^cewin,

¹ James Lord Balmerinoch, President of the College of Justice.

² The case was farther delayed to May 29, but no entry occurs of that date; so that it is likely the parties compounded with the Treasurer and private party, by payment of a stipulated fine.

cowmone theivis, tratouris and rebellis to his Maieftie ; and that within thair houffis in the Middill-hauch of Ruthven and dynerfe vtheris places, mony and dynerfe tymes, in the yeiris of God, I^m.Vj^c. and thre and foure yeiris ; eftir the Murthour of Glenfrwne,¹ and eftir the faidis perfones war declairit rebellis and tratouris, and all our fouerane lordis leigis war lauchfullie prohibeit and difcharget to reffett, fupplie, affist or intercommown with the faidis M^cgregouris, rebellis and fugitives, as faid is, vnder the pane of Treffone.

For the quhilkis crymes aboue writtin, the faidis perfones on pannell becum in our fouerane lordis will. Qubairupone Sir Thomas Hammiltoun (of Monkland, kny^t, Aduocat to our fouerane lord) askit instrumentis.

Aug. 6.—THE KING'S WILL was this day declared against the pannels, as follows.

JAMES R.

JAMES, be pe grace of God, King of Gritt Britane, France and Ireland, defender of the ffaithie. To our Justice, Justice clerk and your deputis, greting. Forfamekill as Colene, Patrick and Alexander Bruces in the Mydilhauch of Huntingtoun, being callit and convenit befor 3ow, ffor the Affisting, Reffett, Supplie and Intercommowning with the CLANGREGOUR, aganis the tennour of our Proclamationes maid pairanent ; thay ar becum in our will for the fame : And albeit thay haif incurrit and mereit the pane of deathe, for that cryme, git We, of our fpeciall grace and mercie, ar content to difpenfe with the rigour of the law ; and haif declairit and declaires our Will as followis, to witt : That pe faidis perfones fall be Baneift the haill boundis of our dominiones, during pe haill dayis of pair lyf-tymes ; vnder the pane of deid, and to be hangit but forder proces : And that thay find fufficient and refponfall cautioneris and fouerteis, actit in the buikis of our Adiornall or Secreit Counfall, that betuix the day and dait heirof, and the tuentie day of Auguft nixtocum, thay fall depairt and pafs furth of our dominiones ; and nocht returne agane within pe famyn, during thair lyf tymes, vnder the pane of ffyve thoufeand merkis, to be payit be the faidis cautioneris coniunctlie and feuerallie, in cais pe faidis perfones or ony of thame fail3ie in the premiffes ; the ane half of the faid pane to ws and our Thefaurer in our name, and pe vper half to David Lord Scone,² our Comptroller, befydys the pane of deid to be incurrit be pe criminallis pame felfis ; with this prouiffioun, that in caice the faidis criminallis or ony of thame fall happin to returne within our dominiones, and nawayis commit ony violence, harme or iniurie aganis ony of our fubiectis afoir pair apprehenfion, in that caice pair cautioneris perfeward and apprehendand thame, and prefenting thame to Justice, the executioune of pe faidis criminallis fall liberat pe faidis cautioneris of all payment of the pecuniall fowme foirfaid : And gif thay fall happin to commit ony violence or harme aganis ony of our fubiectis, eftir pair returning within our dominiones ; in that caice, pair cautioneris to be fubiect to the payment of the pecuniall fowme foirfaid, and the criminallis thame felfis to vnderly the perfonall pweifchment foirfaid : Commanding heirby 3ow our faid Justice to pronunce this our Will judicialle ; and to caus thir presentis be infert in the buikis of our Adiournall. Gevin att Grenewiche, the . . . day of Junij, 1605.

(Sic fufcribitur) MONTROTS, Commiffionar. AL. Cancell.³

Patrik Bruce of Fingask and Mr Alexander Bruce, fear of Culmalindie, become cautioners, and the Bond is registered at length ; the witneffes are George Bruce of Carnok, Sir Johnne Bruce of Airthie, knycht, Johnne Kincaid, writer, and Johnne Kemp, his fernitour.

¹ See Jan. 20, 1604. ² Sir David Murray of Gospertie, afterwards Viscount Stormont, whose name fo frequently occurs in the matter of Gowrie's Conſpiracy. ³ Alexander Lord Fyvie, Chancellor, afterwards Earl of Dunfermline.

Hurting and Wounding — Mutilation.

May 9.—GEORGE FORRESTER, sumtyme servand to my Lord of Roxburcht.

Dilaitit, accusit and persewit be James Skirving in Gilkerstoun of the DITTAY following, viz.

FORSAMEKILL as the said George, haifing consanet ane deidlie feid, rancour and malice aganis the said James Skirving, sumtyme in Humbie and now in Gilkerstoun, for the allegit hurting of him ; the said George, to be revenget thair of, without regaird of justice, in the moneth of Januar, the yeir of God I^m.V^c. fourfoir fyftene yeiris, vnderstanding that the said James was to cum furth of the Place of Humbie, and to pas hame to his awin duelling-hous, than in Humbie mylne, he darnit him selff in ane bourtrie bus,¹ at the heid of Wolfstait ; and in the said James bycuming, sett vpone him, and be way of brigancie,² vnder silence and clud of nycht, betuix aucht and nyne houis at evin, with ane swoird and quhinger in his hand, maist crewallie persewit him for his slauchter, hurt and woundit him in his richt arme and richt hand, and hes mutilat and made him impotent of the samyn ; and gaif him aughtene bludie and deidlie woundis ; and left him lyand for deid vpone the grund : And the said George was airt and pairt of the hurting, wounding and mutilationne of the said James Skirving ; committit in maner and at the tyme soirsaid, vpone set purpois, prouisioun and foirthocht felony.

PERSEWER, James Skirving, sumtyme in Humbie, and now in Gilkerstounne.

PRELOCUTOUR for the persewer, Mr Walter Bellenden.

PRELOCUTOURIS for the pannell.

Mr Johnne Russell, Sir Jedione Murray, My Lord Cranstounne, Mr Laurence M^cGill.

It is allegit be the persewer, that the pairtie defender is at the horne ; and thairfoir na prelocutouris can compeir and defend in this persute.—It is ansuerit be Mr Johnne Russell, that albeit he be at the horne, and lauchfullie at the horne, yit he may compeir for the rebell. *Secundo*, the Hoirning is null, becaus the pannell being than servand to my Lord of Roxburcht,³ the denunciation at the mercait croce of Edinburghe, and registratiounne in the Schereffis buikis of Edinburghe is nocht lauchfull, nor accoirding to the Act of Parliament, bot sould haif bene denuncet at Jedburcht, and registrat in the Schereffis buikis of the Scheref-dome of Roxburcht.—It is replyt be the persewer, that my Lord of Roxburcht duelt, the tyme of the denunciationne, within the burgh of Edinburghe ; and thairfoir the Hoirning, in the haill poyntis thair of, is sufficient ; and the Hoirning standis vnreduect, quhairin he was charget, personallie apprehendit, to haif fund cautionne for his compeirance, vpone xv dayis wairning.

It is allegit be the pannell, that this matter can nocht be put to ane Assyse, becaus he is persewit for Mutilationne, and nocht tane *in recenti crimine*, and nocht charget vpon xv dayis wairning, nor na coppie of the Dittay is geuin him. Ansuerit be the persewer, that he is summond alreddie, vpone xv dayis wairning, personallie apprehendit, and a coppie delyuerit, and put to the horne, and be vertew of Letteris of Captioun, tane and apprehendit and presentit to pannell.—It is allegit that he is nocht summond to this day vpone xv dayis wairning ;

¹ Concealed himself in an elder bush.

² Robbery. Old Fr. *briganderie*.

³ Sir Robert

Kerr of Cessford was created Lord Roxburghe, anno 1600 ; and Earl, in 1616.

and gif he was fummond of befor for this cryme, be vertew of vther letteris, and put to the horne, the samyn Hoirning is null ; for the causis aboue writtin. It is anfuert, the Hoirning standis vireduet.—It is forder allegit be the pannell, that befor this matter pafs to ane Affyse, this mutilatioun man be tryit be Chirurges. It is anfuert be the defender, that he referis the cognitioun of the Mutilation to the Affyse.

THE JUSTICE findis this matter to be be put to ane Affyse, nochtwithstand- ing the former allegiances.

It is allegit, that my Lord Justice Clerk and his deputis can nocht be Clerkis in this proces, becaus this perfewer is Tennent to my Lady Humbie, spous to my Lord Justice Clerk,¹ to quhome he payis maill and deutie, and thairfoir na proces ; and Mr Walter Bellenden, as prelocutour for the perfewer, is brother-in-law to my Lord Justice Clerk ; and thairfoir my Lord Justice Clerk can nocht be Clerk in this proces.—It is allegit be Mr Johnne Russell, that, in respect Mr Walter Bellenden, prelocutour for the perfewer, compeiris and perfewis, and the perfewer is Tennent to my Lady Humbie, his lordshipis spous, my Lord Justice Clerk can nocht be Justice Clerk in this proces. It is anfuert, that Mr Patrik Bannatyne is ordiner clerk to the Justice, to all the legis.

THE JUSTICE Ordanis Mr Patrik Bellenden, ordiner Clerk, to proceed as Clerk in this proces.

Forder, it is allegit that na proces can be grantit, becaus my Lord Justice Clerk can nocht be Clerk in this proces, feing Mr Walter Bellenden, the prelocutour for the perfewer, is his brother-in-law ; as also, the perfewer is Tennent to my Lady Humbie of the landis of Gilkerstoun and Gilkerstoun-mylne ; as also, is tennent to my Lord him felf. Anfuert, thair is ane ordiner clerk, viz. Mr Patrik Bannatyne, aganis quhome thair is na exceptioun, quha is ordiner Clerk to all our fouerane lordis leigis.—The anfuertis foirfaid meittis nocht the declinatour, becaus the alledgeance is proponit aganis the Justice Clerk, without ony mentioun of Mr Patrik Bannatyne.

THE JUSTICE findis proces, and Mr Patrik Bannatyne to be clerk, vules he propones a relevant alledgeance aganis him as ordiner clerk.

Thaireftir the pannell and prelocutouris declairit that thai only propone the declinatour foirfaid aganis my Lord Justice Clerk, quhy he fould nocht be clerk ; and ar content, that quhan his lordship is remouet furth of Jugement, in respect of the declinatour foirfaid, gif sa be fund, Mr Patrik fall remane as clerk ; but² preiudice of sic lauchfull exceptiones as may be proponit aganis him, the said

¹ Sir John Cockburn of Ormistoun, Lord Justice Clerk, married Elizabeth, the eldest daughter of Sir John Bellenden of Auchnoule (by his second wife, Janet Seton), and widow of James Lawson of Humble.

² Without.

declinatour being first discusst. It is allegit be the pannell and his prelocoutouris, vnder protestatioun that the former declinatour be first discusst, and na vtherwayis, that Mr Patrik Bannatyne can nawyis be admittit to be clerk in this proces, for tua causis; first, becaus he is Depute to my Lord Justice Clerk, aganis quhome the former exceptioun declinatour is proponit, and hes his office only of his lordship presentlie; and sua the exceptioun competent aganis the Clerk-principall, man be also competent aganis his Depute: Nixt, becaus Mr Walter Bellenden, quha is prelocoutour, and Mr Patrik is thridis or ferdis of kyn to Sir Johne Bellenden of Auchnoull, and James Bannatyne of Newtyle ar thridis or ferdis of kyn; and declairis that Sir Johnne Bellenden,¹ father to Mr Walter, and James Bannatyne, father to Mr Patrik, ather thair guidfchiris or grandfchiris war brether.—And Mr Patrik Bannatyne being sworne, declairit that the former alledgeance of kynreid was nocht trew.

THE JUSTICE findis proces; and ordanis Mr Patrik Bannatyne to be Clerk to this proces, quha is ordiner Clerk to all our souerane lordis leigis, to the Justice.

The pannel takis instrumentis of the Justice Interlocontour; and protestis for remeid of law.

The Defender declairis he will nocht feik the perfeweris ayth, vpon the verificatioun of the Dittay; bot ony craves quhat the perfewer produces to verifie. The perfewer declairis that he fall schaw his mutilatioun to the Assyse.

VERDICT. THE ASSYSE, be the mouth of Williame Johnneftoun in Over Keyth, chancellor, be pluralitie of voittis, ffand, pronuncet and declairit the said George Forrester to be ffylit, culpable and convict of the Hurting, Wounding and Mutilatioun of the said James Skirving of his richt airme and richt hand, in maner specifeit in the said Dittay.²

Slaughter.

May 22.—WILLIAME THOMESOUNE in Reddene.

Dilaitit of airt and pairt of the Slauchter of vinq^{le} Niniane Edzer.

Sir Andro Ker of Hietoun, knycht, become pledge and fouertie that he fall compeir befor the Justice or his deputis in the Tolbuth of Edinburgh, the tuentie-fyve day of July nixtocum, to vnderly the law, &c. vnder the pane of Ten thousand markis; quhairof the ane half fall be payit to the Kingis Maiesteis Thesaurer, and the vther half to the pairtie perfeweris.—On Jul. 25, the Justice continued the case to the air of Roxburcht, ‘tertio Itineris (vel super premonitione) xv dierum, Plegio, Joanne Ker de Bowdene.’

Slaughter — Shooting with Pistolets and Guns.

May 31.—JOHNNE MURE of Auchindrane,³ Johnne Mure of Craigfkene,

¹ Of Auchnoule. ² The Sentence is not contained in the Record. ³ See the Trial of this infamous man, Jul. 7, 1600, &c., for the atrocious Murder of Sir Thomas Kennedy of Culzeane, &c

Moyfes Lokhart, brother to the Laird of Bar, James Bannatyne in Chapel-Donall, David Kennydie, younger of Maxwallow, Charles Dalrumpill, burges of Air, George Campbell, younger of Schankstoune, and Gilbert Kennydie in Machar.

Dilatit, accusit and persewit, be Richart Spens, in Vgftoune, as father to vmq^{le} Richart Spens, feruitour for the tyme to Johnne Erll of Cassillis, and Sir Thomas Hammiltoune of Monkland, Aduocat to our fouerane lord, for his hienes interes, ffor airt and pairt of the Slauchter of the said vmq^{le} Richart Spens; and for bering, wering and schuteing of pistolettis and gunnis,¹ contrair the tennour of the Actis of Parliament; committit vpoune the nynt day of December, the yeir of God I^m.Vj^c. and ane yeiris, vpoun the landis of Pennyglenne.

PERSEWER, Richerd Spens in Vgftoune, Sir Thomas Hammiltoune of Monkland, Aduocat.

PRELOCUTOURIS for the pannell, My Lord Vchiltrie, The Laird of Drumlanrig, The Laird of Rowallane, Josias Stewart (of Boningtoun), Mr Johnne Ruffell, Mr Williame Oliphant.

(The two Mures, Lokhart and Bannatyne,) tuik thame to our fouerane lordis Respett,² producit, vnder the Prewie Seil, of the daitt, att Falkland, the tuelff day of Junij, the yeir of God I^m.Vj^c. and tua yeir, for the saidis crymes. Quhilk Respett the Justice admittit; and ordanit thame to find caution and fouertie to fatisfie the pairtie, for airt and pairt of the said slauchter: Lyke as, Matho Stewart of Dunduff, Josias Stewart of Boningtoun, and George Campbell younger of Schaulestoun become cautioneris and fouerteis with thame felffis, coninunctlie and fenerallie, to fatisfie the pairtie, for airt and pairt of the Slauchter of the said Richard Spens.

George Campbell also obtained ‘oure fouerane lordis Respett, producit, vnder the Prewie Seill; of the dait, at Halyruidhous, the last day of November, 1602.’ Matho Stewart of Dunduff, Josias Stewart of Boningtoun and Johnne Mure of Anchindrane become pledgeis, &c.

The case was continued, as to the remainder of the persons on pannel, to the Justice-air of ‘Air, tertio Itineris (vel super premonitione) xv dierum.’

[*Mr William Hairt of Levelandis and Mr William Borthuik, Justices-Deputes.*]

Mutilation and Demembration.

JUN. 11.—EDUARD JOHNNESTOUNE, younger, merchand burges of Ed^l.

Dilatit of airt and pairt of the Demembring of Johnne Broun, goldsmyth, of the thombe of his left hand; committit vnder nycht, the fevintene of May last.

PERSEWERIS, Johnne Broun, goldsmyth, Sir Thomas Hammiltoune of Monkland, Aduocat.

PRELOCUTOURIS for the pannell, The Laird of Johnnestoune, The Laird of Wafraw, Mr Alexander King, Mr Thomas Gray and Mr Johnne Johnnestoune (Advocates.)

It is allegit be the pannell, that this matter can nocht be put to the knowledge

¹ This is the first instance in the Record of the term ‘gun;’ ‘hagbut’ being the prevalent name for that weapon.

² Remission, respite.

of ane Affyse ; becaus the fact lybellit is committit vnder seilence of nicht, and the said Johnne Broune, being convenit befor the Lordis of his hienes Secreit Counfall, he is convict on ane manifest Ryote, for the wrangus invading, trub-billing and molesting of the defender, his wyf and fervand, vnder filence of nycht, and sua, quhatfumeuir fell out be that occasioun, the falt was in the per-fewer ; and of the law, albeit he had been flauie, the said defender had bene in na danger : In respect quhairof, the samyn aucht nocht to be put to the know-ledge of ane Affyse. For verificatioun quhairof, producet the Lordis of Secreit Counfellis decreit, daitit the xxij day of Maij last, 1605. It is answert, that the allegiance nawayis meittis the Dittay ; seing the Dittay is the said Johnne Brounes persute, for redress and pwneishment of the Mutilatioun and Dismem-bring of him, quhairof thair was nather complent nor tryell, befor the Secreit Counfall ; nather can ony thing, done in that judgement, stay the puting of ane relevant Dittay to ane Affyse, befor the Justice ; seing, the Counfall could nocht be Judges to the samyn ; and the matter being put to ane Affyse, the Affysouris will try, quhither the fact was done in lauchfull defense of the pannel or nocht.

THE JUSTICE continewis this Interlocutour to the xvij of this instant. ‘ Plegio, Waltero Ker, portionario de Diriltoun.’

(Jun. 18.)—On xvij June,¹ The Justice findis proces, nochtwithstanding of the allegiance proponit the last dyett, and left at Interloquutour. And eftir the pronouncing of the said Interloquutour, of consent of bayth the pairteis, continewis this persute (quhill the) xxvij day of Junij instant. ‘ Plegio, M^{ro} Joanne Johnnestoune, aduocato.’

DITTAY against Edward Johnnestoun, Younger.

FORSAMEKILL as, vpon the sevintene day of Maij lasthypast, vnder nicht, thair fell out ane debait² betuix the said Eduard Johnnestoun and Patrik Robertsoune, seruitour to George Cuninghame, gold-smyth, burges of the Cannongait, vpon the hie streit of the burgh of Edinburghe, aboue the Stink-and-styles³ thair of : and for eschewing of hurt that nicht haif fallin to aither of the saidis parteis, the said Johnne Broune, amangis vther honest nichtbouris, preissit to red⁴ thame : Nochtwithstanding, it is of veritie, that the said Eduard Johnnestoun, persaveing the said Johnne Broun to cum and resist and stay his furie, he left the said Patrik, and but⁵ offence gevin be the said Johnne Broun to him, aither be word or deid, he sett vpon the said Johnne with ane drawin swoird, and maist crewallie invalidit him for his slaughter, hurt and woundit him in his left hand, to the effusioun of his bluid in grit quantitie ; and hes Mutilat and dismemberit the said Johnne of the thombe of his said left hand, and cuttit the samyn away ; and sa hes maid him alluterlie vnhabill to wyn his leving, in his airt of goldsmyth-craft ; to his vtter wrak, and to the grit contempt of our fouerane lord, his hienes authoritie and lawis : And the said Eduard Johnnestoun is airt and pairt of the said Mutilatioun, demembring and cuting away of the said Johnne Brounes thombe of his said left hand. For the quhill he aucht and fould be pwneishet, conforme to the lawis of this realme, in exampill of vtheris to commit the lyk, in tyme cuming.

¹ Mr William Oliphant is added to the *Prelocutours*, and on 27 June, Mr Thomas Craig. ² An altercation and scuffle. ³ A narrow passage to the eastward of the entrance to Haddo's-hold, New North Church, and celebrated for similar rencontres. ⁴ Separate. ⁵ Without provocation, excepting the proverbial fate of those who indiscreetly interfere in such matters. The ‘ *redding-strail*’ was no child's play in those days, when sword and dirk were the swift ministers of vengeance !

VERDICT. The Assyse, be the mouth of David Fairlie, merchand burges of Edinburghe, chancellor, for the maist pairt, fand, pronunceit and declairet the said Eduard to be Clene, innocent and acquit of airt and pairt of the Mutilatione, &c. ; in respect, vpon their consciences, as thay haif tryit and considerit, the famin proceidit vpon the said Johnne's awin default ; and was committit and done be the said Eduard, the tyme foirsaid, in defence of him self, his wyfe and fervand, quha war invaidit and molestit be the saidis Johnne Broune and Patrik Robertsoune, vnder nycht. Quhairupoune the said Eduard askit instrumentis.

' Umbesetting'—Rape — Child-murder.

JUN. 18.—JOHNE BROUNE, goldfmyth, burges of Edinburghe.

Dilatit for Umbesetting of Katherene Rae, spous to Eduard Johnnestoune, younger, merchand burges of Edinburghe, and preissing to fforce hir ; and caussing hir to pairt with bairne.

PERSEWAR, Eduard Johnnestoune, younger, merchand burges of Edinburghe.

PRELOQUUTOURIS for the pannel, The Laird of Phillorth, Mr Johnne Russell, Mr James Donaldsoune.

THE JUSTICE continewis this matter to the xxvij day of Junij instant.

DITTAY against Johnne Broune.

(JUN. 27.)—FORSAMEKILL as, vpon the sevintene day of May lastbypast, the said Katharene and Eduard, hir husband, haifing souppit in pair faperis hous, and being returning estir supper, about ten houris at evin, fra pair said faperis houe to pair awin ludgeing, in peceable and quyet maner, lipning for na harme, iniurie or perforce of ony perones, bot to haif past in peceable maner throw the Hie-streit of pe said burgh of Edinburghe to pair said ludgeing, vnder Godis peax and our souerane lordis ; it is of verritie, that pe said Johnne Broun, goldfmyth, accompaneit with Patrik Robertsoune, burges of Aberdene, persaneing the said Katharene to be hir self, allane, accompaneit allanerlie¹ with ane fervand woman ; and finding pe gait² to be quyet, sa that nane was pairupone, to mark pair doingis, or to stay their intendit schamefall and villanuse interpryse ; the said Johnne Broun and Patrik Robertsoune resoluet violentlie to haif fforceit pe said Katharene and hir fervand woman : And for his effect, the said Johnne come to the said Katharene, and brak furth in findrie vncumlie and vnhonnest speiches to hir, beleising to haif perswaidit hir to haif yeildit to his filthie lust and beistlie appetite ; and finding him self disappointit of pat meane, he, in his beistlie rage and furie, as ane posselt with ane wikket spreit, maist schamefullie and crewallie grippit pe said Katharene Rae be the gorget, and violentlie drew hir aff pe hie streit to ane cloiseheid,³ vnder ane stair ; and pair crewallie, with his faldit neissis, strak and dang hir in the face, and causet hir to bleid at mouth and neise in grit quantitie ; raif hir courche⁴ and remanent ornamentis of hir heid, and cuist pe samyn vnder his feit ; and, with his kneysis, puchet pe said Katharene in the bellie, scho being grit with chyld ; and had nocht faillit to haif abuset hir chaslitie, gif pe said Eduard, hir husband, and vperis nychtbouris (heiring hir and hir said fervand gif pe sprache and cry⁵) had nocht cum, with diligence, and releinit hir furth of his cruell grippis. Be occasioun quhairof, the said Katharene was led hame to hir awin hous, quhairin scho hes layne continuallie bedfast senfyne, in grit pane and dollour, vnder pe cuir of Doctouris and chirurganes ; sa that, vpon the xxj day of May lastbypast, or pairby, scho pairtit with ane deid bairne ; and scho hir self hes bene, and as

¹ Only. ² Street, way. ³ The numerous narrow alleys running downwards from the north and south sides of the High-street of Edinburgh, are termed *cloises* ; the closeheid signifies the entrance to one of these passages.

⁴ Tore her curche, a sort of cap or head-dress. Old Fr. ⁵ Give the alarm ; the hue and cry.

3it is, in grit haizard and danger of hir lyfe: Committing pairthrow manifest villany, vnder nycht, within the said burch of Edinburghe, vpone þe Hie-streit pairof, quhilk sould be ane faistie and place of refodge to all honest men and wemen; speciallie, to the honest nychtbouris, inhabitantis pairintill; Lyk as, þe said Johnne Broune is airt and part of the samyn villany and barbarus cryme: As also, is airt and part of the Slauchter and distructione of the said Katharenes infant bairne, quhairwith scho hes pairtit, be occasionne foirsaid. For the quhilkis, the said Johnne aucht and sould be pwneischet, conforme to the lawis of þis realme, as ane brigane¹ and Murtherour vnder nycht; to the terrour and exampill of vtheris to commit the lyk, in tyme cuming.

It is allegit that the Summondis is nochit relevant; in respect the fact lybellit is only ane naikit intencionne. It is ansuerit be the persewer, that he conioynis the haill crymes lybellit togidder, to be tryit be the Assyse.

THE JUSTICE findis the summondis relevant, in respect of the ansuer.

It is forder alledgit, that this matter can nochit pass to ane Assyse, in respect it is tryit alreddie, befor the Secreit Counfall, and ane Sentence gevin thairin alreddie. It is ansuerit be the persewar, that the Secreit Counfall ar nochit Judges Criminall, and that na Precognition tane be thame can be in preiudice of decisioun to the Justice, to put crymes to ane Assyse; as was laitlie decydit betuix Johnnestoune of Newbie contrair Williame Maxwell.²

THE JUSTICE remittis this matter to the tryall of ane Assyse.

VERDICT. The Assyse, be the mouth of Dauid Fairlie, merchand burges of Edinburgh, stand, promncet and declairit the said Johnne Broune to be flylet, culpable and convict of the Invaiding and molesting of the said Katharene Rae, vnder nycht; committit the tyme foirsaid, contenit in the said Dittay: And declairit the said Johnne to be Clene, innocent and acquit of the Murthour and distruction of the said infant bairne, committit the tyme foirsaid; in respect thair was nathing producit for verifeing thair of: Quhairupoun aither of the saidis parteis askit instrumentis.³

[*Mr Williame Hairt, Justice-Depute.*]

**Hamesucken — Besieging the Tower of Newbie — Shooting Pistolets
— Taking Captive, &c.**

JUN. 21. — WILLIAME MAXWALL of Gribtoune, Barbara Johnnestoune, his spous, Elizabeth Johnnestoune, relict of vmq^{le} Johnne Johnnestoune, appeirand of Newbie (mother to the said Barbara.)

Dilaittit, accusit and persewit, be vertew of THE DITTAY following, viz.

FORSAMEKILL as, albeit be dyuerse guid Actis of Parliamant and Secreit Counfall, *respectiue*, oure fouerane lord hes prohibeit and discharget the beiring and weiring of hagbuttis and pistolettis vnder certane panes mentionet in the saidis Actis; nochitwithstanding, it is of treuth, that sic is the wikket dispositioun of sum persones, quha preferring thair awin inordinat appetite and revenge, to the dew reuerence and obedience of his lienes saidis lawis, thay and thair domestik servandis daylie and conti-

¹ Fr. *brigand*.

² See JUN. 21, the following Case.

³ The Sentences are not Recorded.

nualle beiris and weiris hagbuttis and pistolettis, as thair ordiner and accuſtomet wappones; of fet purpois and prouifounne to put thair vngodlie determinatioun to executiounne, aganis ſie of his hienes peceable ſubiectis, aganis quhom thay beir ony querrell or haittrent: As namelie, the ſaidis Williame Maxwell of Gribtoun, Barbara Johnneſtoun his ſpous, and Elizabeth Stewart hir mother, haifing, this langtyme bygane, borne ane ſecreit and hid malice aganis the ſaid Robert Johnneſtoun of Newbie, in reſpect of the dependance of certaine actiones, depending befor the Lordis of Counfall and Seſſioun, movet be aither partie aganis vtheris; and ſpeciallie, ane actiounne of Reduction intentit, and the Summondis thair of lauchfullie execute, at the inſtance of the ſaid Robert aganis the ſaid Williame Maxwell, Barbara his ſpous, and the ſaid Elizabeth hir mother, for Reduction of the Retour of vinq^{le} Johnne Johnneſtoun of Newbie, that laſt deceiſſit, ſpous to the ſaid Elizabeth, and for Reduction of his Seafing following thairupoun, and of certane vtheris pretendit Infeſtmentis, allegit maid be him to the ſaid Elizabeth his ſpous, and to the ſaid Barbara his dochter: And ane vther actioun and cauſe, perſewit be the ſaid Barbara and the ſaid William hir ſpous, for his entreis, aganis the ſaid Robert Johnneſtoun, for randeriſg to thame the Toure and ſtortalice of Newbie: And the ſamyn actioun being oft and dyuerſe tymes callit, in preſence of the ſaidis Lordis, and dyuerſe guid exceptiones and deſenſis proponit be the ſaid Robert and his procuratouris in his name, quhilk as yit ar vndiſcuſſit, the ſaidis Williame, Barbara his ſpous, and the ſaid Elizabeth hir mother, nocht being content to abyde the event of the ſaidis Lordis Judicatorie in the ſaidis cauſis, bot rather to contempne our ſouerane lordis authoritie and lawis, and to tak Juſtice at thair awin handis, as gif thair war na ordiner juſtice within this realme; thay, during the ſaidis dependances, and eſtir raiſing and lauchfull executioun of the ſaidis Summondis, in maner aboue writtin, haifing conſultit and devyſit with Johnne McBrair, Robert Johnneſtounne callit of Brwme, ſeruitouris to the ſaid Williame Maxwell, Thomas Jardane callit of Birnok, Eduard Maxwell, brother to the Laird of Conbath, and Thomas Jardane, ſervitour to Johnne Lord Hereiſ; the ſaidis fyve perſones immediatlie befor namet, being all bodin in feir of weir,¹ with jakis, ſuordis, ſteilbonnetis, lang gwnes, piſtolettis, and vtheris wappones *invaſiue*, prohibeit to be worne in maner foirſaid, laitlie, vpone the xix day of Merche laſtbypaſt, be directionne, cauſing, command, hounding and convoy, reſſett, aſſiſtance and ratihabitoun of the ſaidis Williame Maxwell, Barbara Johnneſtoun his ſpous, and Elizabeth Stewart hir mother, come ryding to the place of Neubie, per-tening to the ſaid Robert Johnneſtoun, and being in his peceable poſſeſſioun, than, and dyuerſe monethis of befor; quhair the ſaid Robert was deidlie ſeik for the tyme: Eſtir thay had ſend bak thair horſis fra thame, quhairby thair being thair ſould nocht be knawin, thay privatlie, be the moyane of the ſaid Elizabeth Stewart and Barbara Johnneſtoun, convoyit thame ſelfſis, vnder clud and ſilence of nycht, within the laiche² hall and houſis of the ſaid place of Neubie, inhabeit be the ſaid Elizabeth Stewart and Barbara Johnneſtoun, be quhome thay war reſſett within the ſaidis houſſis; and thair, the ſaidis perſones, awaiting thair awin opportunitie, be way of foirthocht ſfellony and hameſukin, and vſurping vpone thame our ſouerane lordis authoritie, beſaiget and invaidit the ſaid Tour,³ thay being in the ſaid Robert Johnneſtounis poſſeſſiounne, as ſone and appeirand air mail and of tailzie⁴ to the ſaid vinq^{le} Johnne Johnneſtoun of Neubie, his faither: And the ſaidis fyve perſones maiſt ſchamefullie, crewallie and vnumerciſſullie preiſſand, be violence and vulawfull force, to aſſage and tak the ſaid Tour and fortalice, invaidit and hurt the ſaid Eduard Johnneſtoun, brother to the ſaid Robert, and maiſt crewallie ſchot him throw the body with ane piſtolet; and alſo maiſt crewallie invaidit, hurt and woundit the ſaid Airthour Johnneſtoun, ſervand to the ſaid Robert, in the face, with the ſchot of ane vther piſtolett; to the effuſiounne of thair bluid in grit quantitie, thay being in cumpany and ſervice with the ſaid Robert, and in defence of him and his Tour and fortalice of Newbie; and than, per force, be way of foirthocht ſfellony and Hameſukkin, as ſaid is, and vſurpeand and takand vpone thame our ſouerane lordis authoritie, thay enterit within the ſaid Robertis Tour and fortalice of New-

¹ In warlike array.² Low or under-hall.³ Tower.⁴ Son and apparent heir-male and of entail.

bie, and tuik the said Robert and the said Airthour, his fervand, captiues and priffoneris; the said Robert being lyand deidlie feik and bedfast within the samyn; crewallie invaidit thame, band thair handis behind thair bakis, and violentlie and perforce schot¹ thame and thair haill cumpanie furth of the said Tour, thay being our fouerane lordis frie subiectis. QUHILKIS crewall, schamefull and abhominable crymes aboue writtin, viz. Vfurpatione of our fouerane lordis auctoritie, Hamefukkin, Beiring and weiring of pistolettis, and remanent Invasiones, factis and deidis *respectiue* aboue specifit, was done and committit be the foirfaidis fyve perfonis, of the speciall command, hounding out, directione, consulting, devyse, reffett, assistance and ratihabitoun of the saidis Williame Maxwell, Barbara Johnnestoun his spous, and the said Elizabeth his moder: And thairby, thay, and everie ane of thame, ar airt, pairt, red and counfall, and ratiefearis of the saidis haill crymes aboue expremitt, and everie ane of thame, viz. Vfurpation of our fouerane lordis autoritie and Befageing and taking of the said hous, Convocation of his Maiesteis leigis, Beiring and weiring of bagbuttis and pistolettis, contrair the tennour of the saidis Actis, Invaiding, schuiting, hurting and wounding of his hienes frie lieges and subiectis, and Invaiding and taking of thame captiues and priffoneris, be way of Hamefukkin and ffoirthocht ffellony, binding of thair handis behind thair bakis, schuiting and expelling of thame violentlie furth of thair awin houffis, but² Commissioun; thay being our fouerane lordis frie legis and subiectis, in maner foirfaid.

PERSEWARIS.

Robert Johnnestoun of Newbie, Eduard Johnnestoun his brother, Airthour Johnnestoun, fervand to the Laird of Newbie, Sir Tho³ Hammiltoun of Monkland, kny⁴, Aduocat to our fouerane lord.

PRELOCUTOURIS for the pannell.

The Laird of Gairleis,
Mr Alexander King,

The Laird of Hempisfeild,
Mr Robert Lyntoun,

Andro Ker of Fentoun,
James King.

It is allegit be Mr Alexander King, prelocutour for Barbara Johnnestoun, that na proces can be led aganis hir, becaus scho being convenit ofbefoir, befor the Lordis of Secreit Counfall, vpone the haill contentis of this lybell, factis and deidis lybellit, at the instance of my Lord Aduocat and Robert Johnnestoun, perfeweris, scho is affoilzeit³ *simpliciter*, be Decreit of the Lordis of Secreit Counfall; and that thairefter the said Lybell was admittit to the said Aduocat and Robert Johnnestoun's probatioun, and thai succumbit⁴ thairintill: For verificatioun quhairof, thay producet the said Decreet-absoluitour, of the dait, at Edinburgh, the secund Maij last.—It is ansuerit be the perfeweris, the allegiance aucht to be repellit, becaus nathing done befor the Secreit Counfall, ather be Sentence absoluitour or condampnitour can stay the Justice to proceed in ane Criminal cause; as was practiket⁵ betuix Eduard Johnnestoun Younger and Johnne Broune:⁶ And gif the Counfall can nocht judge vpone sa heich crymes as ar lybellit, or geve ony penall sentence vpone the samyn, conforme to the law, thair precognitioun can nocht stay the proceeding of the Justice. Last, the summondis befor the Counfall was fund relevant, and the absoluitour proceedit vpone nocht probatioun; and as crymes capitall can nocht be provin be Wit-

¹ Thrust, ejected. ² Without.
made matter of precedent or practice.

³ Absolved, acquitted, freed.

⁴ Yielded.

⁵ Decided,

⁶ See the preceding Case, Jun. 18 and 27, 1605.

nesses, bot be the tryell of an Affyse, sa the nocht probatioune of the samyn, befoir the Counfall, can nocht stay the same to pas to ane Affyse.

It is answert be the pannell, that the absolutour befoir the Lordis of Secreit Counfall will stay the Justice of ony forder proceeding: And as to the Practique betuix Eduard Johnnestoune and Johnne Broune, the samyn militatis nathing in this caice. That in that caice, Johnne Broune was convenit befoir the Counfall, for the wrangus Invaiding of Eduard Johnnestoune's wyfe, vnder clud and silence of nycht; and the proces befoir the Justice was ane persute, persewit at the instance of Johnne Broune aganis Eduard Johnnestoune, for Mutilationne; sua that the Decreit of Secreit Counfall nawayis met that persute befoir the Justice: And also, as for the authoritie and power of the Lordis of Secreit Counfall, the perseweris can nevir be hard to oppone the samyn; in respect thay authorizet that judgement, callit and persewit befoir thame, as Judge-ordiner, for the factis lybellit, led and deducet probatioune eftir that the summondis was fund relevant in their fauouris, and thaireftir succumbit, as said is; and thairby, can nevir be hard to impunge the said Decreit and sentence. In respect quhairof, the allegiance standis relevant.—The Aduocat adheris to his former answert.

The Justice findis proces. Quhairupone the Aduocat askis instrumentis.

It is forder allegit, that we ar nocht disputing heir vpon the authoritie of the Counfall or of the Justice, bot insistis only on this poynt, that thai ar maid fré of the fact afoir the Counfall.—It is answert be the Aduocat, he is nather acquit be ane Affyse, nather yit be ane Remissionne.

The Justice Repellis the allegiance, *locoquo*; reserving the pannellis informationne thair of to the Affyse.—The Aduocat takis instrumentis of the Justice interlocutour.

It is allegit that the Summondis is nocht relevant, in respect that the ffactis and deidis lybellit ar nocht capitall, and can nocht be put to the knowlege of ane Affyse.—The Aduocat answertis, aucht to be repellit, in respect of the Summondis.

The Justice findis the summondis relevant; and ordanis the samyn to be put to the knowlege of ane Affyse.—The Aduocat takis instrumentis of the Interlocutour.

ASSISA.

George Hadden of that Ilk,	Robert Frenche younger of	William Hay of Lynplum,
Thomas Portious of Glenkirk,	Frencheland,	Johnne Tennant of Kairnis,
Willame Twedie of the Wrae,	James Flemyng of Spittel,	Willame Sincler of Roisling,
Mr Alex ^r Menzies of Culterrawis,	James Crawford, goldfynth, bur-	George Hay of Monktonne,
Patrik Lanctoun elder of Erle-	ges of Edinburgh,	Ja ^r Cranstoun of Monktonhall,
hauch,	Alex ^r Fairlie elder of Braid,	. . . Sydferrf of Ruchlaw.

The Aduocat takis instrumentis of the sweiring of the Affyse; and Protestis for Wilfull Errou, gif thay Acquit.

The Pannell repeatit the allegiance proponit of befoir to the Affyse; and in respect that the Decreit of Secreit Counfall gevin aganis the perseweris, efter probatioun

led be thame, *in foro contradictorio*, vpoun thair awin perfute, Barbara Johnestoune is declairit frie of the hail factis lybellit, the Assyse can nawayis ffile hir. As lykwyis, Williame Maxwell and Elizabeth Steuart are fund Clene and innocent of the deidis and factis lybellit; that the samyn was nocht done of thair causing, command, (or) assistance, but only of ratihabitioun,¹ eftir the committing of the factis: That thai can nawayis be convict, be the Assyse, of the deidis lybellit, as done be thair causing, command and assistance, airt and pairt: And gif thai be clauget, as thai man be of necessitie, of the premissis, thay can nawayis be convict of this lybell, because ratihabitioun *per se* nather is relevant, nor induces a cryme: And forder, befor the Stewart² of Annandaill, the hail pannel being accuset, as culpable of the factis and deidis lybellit, and thairfoir to haif incurrit the vnlawis for schedding of bluid; thay ar Clauget be ane condigne Inqueist, and fund innocent, baith of the bluid and bludwyte;³ as the Decreit, heirwith producet, beiris. In respect quhairof, the Assyse nawayis can ffile or convict thame; and in cais thay do, Protestis for manifest and Wilfull Errour.

The Aduocat, for informatioun of the Assyse, and to the effect thay be nocht led and inducet to commit Errour, acceptis the Decreit of Secreit Counfall producet be the pannell, togidder with the Testimoniall of the clangeing of the pannell befor the Stewart of Annandaill, in sa far as the samyn makis for the persewaris, and na vtherwayis: And first, allegis that the summondis persewit befor the Lordis of Secreit Counfall was fund relevant be the Lordis thairof, and the samyn fund provin, in effect and substance, aganis the said Williame Maxwell and Elizabeth Stewart; and gif ony appeirance be of absolutour gevin in fauouris of ony of the defenderis, the samyn proceedit vpoun the Depositiones of the Witnesses; becaus Depositiones of Witnesses can haif na forder fayth nor⁴ thay depone to knaw of thair certane knowlege; and thairfoir, that quhilk is nocht deponit be the Witnesses to be done, in thair presence, sicht and certane knowlege, is nocht fund provin, quhairupounne absolutour may be gevin: Bot becaus crymes, as thai ar vnawovabill of thame selfis, sa thai are devyset and done secreteilie, in sic maner as na Witness can knaw the samyn; and thairfoir, can nocht depone thairintill; thairfoir, be the lawis of this cuntrie, it is provydit, that crymes neidis nocht, nor may nocht be provin be Witnesses, bot are referrit to the knowlege of ane suorne Assyse; quhais determinatioun, according as thay ar persuadit in thair consciences, is ane sufficient warrand to thame selfis, and ane just cause of convictionne of the pannell; and it is sufficient to thame to convict, gif thai find nocht cleirlye, thay can iustlie quyte.⁵ And thairfoir, albeit⁶ the Witnesses knew nathing, that was first vsed, and thairby thair Depositiones

¹ Confirmation or approval; from the Law Lat. *ratihabere*.
the bloodwit was a fine paid for the shedding of blood.

⁴ Than.

² Steward, *Senescallus*.

⁵ Acquit.

³ The
⁶ Although.

gaif occasionne of sum absolutour, for laik of probatioun be thame; yit that warrandis nocht the Assyse; bot thai man ather ffyle, or commit Wilfull Errour, in respect of the notoriety of this Dittay; to witt, that the Houfe of Neubie was tane, in maner contenit in the Summondis, be the perfones quha for the samyn hes bene continuallie fugitive fenfyne; tua of thame being Williame Maxwellis feruands, and the vther thre his speciall freindis, haifing na entreis nather to tak nor keip the houfe for thame selffis, on thair awin respect, bot only at the desyre and be the causing and to the behuif of the said Williame and haill remanent defenderis: Quhilkis defenderis, pretending rycht to the said houfe and landis; as the verificatioun of tua fenerall dependances for the samyn befor the Lordis of Sessioun, heirwith producet, beiris. The saidis defenderis, expresse aganis the Act of Parliament maid anent the flanchter and trubbillung of parteis, in persute and defence of thair actiones, being the 219 of the Kingis xiiij Parliament, and vtheris Actis maid thairanent, intyset and causet the saidis flugitiues violently to Afflage and tak the said houfe, persew, invaid and demane¹ the said Robert Johnestoune and his assistaris being thairintill, in maner contenit in the summondis; quhilk being committit be thame, thay nather pretendit nor retenit ony richt or possessionne thair of; bot only keipit the samyn, quhill² Williame Maxwell come to thame in all haist; to quhais behuif thay haifing tane the said houfe, thay incontinent delynerit the samyn to him; quha fend thame away vpone his awin horse, and his freindis that come with him. And as to the Gentilwomen, the said fact being lykwayis done to thair behuif, thay resset and hid the committeris, being of intentionn and preparatiounne to commit the samyn; and thai ran out of the ane into the vther; and thairby suppryset the said Tour, vpone the occasionn, to the behuif, and of the ratificatiounne foirsaid: Lykas, be the Decreit, it is fund to be done of the ratificatiounn of the said Williame Maxwell and Elizabeth Stewart; quhilk ratihabitounne, of Law, in ane matter done to the behuiff of ony man, is compairit and pwneifchet as ane preceeding command, be the first Law *de vi et vi armata*, in the xiiij paragraph, in thir wordis: ‘*rectius enim dicitur in maleficio ratihabitouem mandato comparari;*’ to wit, it is richtlie said, that ratihabitounne in crymes is richtlie comparet to ane preceeding command: And the thrid Law of the said Tit. in the tent paragraph, in thir wordis, ‘*cum procurator armatus venit, et ipse dominus armis dejicisse videtur, siue mandauit, siue ut Julianus ait, ratum habuit;*’ that is to say, quhan ane mannis fervand cumis airmitt, his maister is repnt to haif expellit or reiectit with airmes, quhither he commandit, or, as Julian sayis, he ratifeit the samyn. And thairfoir, seing thir fervandis and freindis come airmet and did this violent deid, be ratihabitounn of the pannell, togidder with the

¹ Treat, use, handle.² Until.

Decreit finding the samyn, makis thame giltie thairrof. Lyk as, the Act 151 of the Kingis 12 Parliament, makis ane criminall Summondis to be relevant, gif it beiris that the defenderis ar airt and pairt of ane relevant cryme; and it is trew that that cryme is fund relevant be the Justice, and remittit to the Assyse; and the notorietye of the pannellis being airt and pairt thairrof is befor deducet, feing thair knowlege of the said fact, thair benifeit rypet¹ thairby, and ratihabitioune thairrof, is manifest. And as to the clengeing producet, the samyn makis aganis the producer; becaus the perseweris, as pairtie grevit, and the Kingis Aduocat, for his hienes entreis, being necessar and only parteis, and the defenderis knawing thair awin giltines, purchest and deducet ane led Tryell, befor thair awin freindis, being bayth Judges and Assysouris; na pairtie haifing entreis being present nor wairnit thairto. In respect quhairrof, gif the Assyse Clenge, the perseweris protestis for Wilfull Errorr.—The Aduocat askit instrumentis of the sweiring of the Dittay be the perseweris, in presens of the Assyse; as lykwyis the taiknis² producet, also suorne be thame.

It is ansuerit for the pannell, to the alledgeance immediatlie preceeding, that the Aduocat wald haif the Assyse, quha kennis³ nathing of the factis and deidis lybellit, bot the commone bruit,⁴ and be thair awin allegiance, to ffyle, nochtwithstanding that the multitude of the Witnesses producet be the perseweris could nawayis preve the fact; thay being Witnesses, duelleris vpon the landis, and round about the samyn; and ane grit number of thame come to the deid, and yit thay wad nocht tak it vpon thair consciences to depone ony thing by⁵ the verritie; sua, the Assyse, quha kennis far less, can nocht convict vtherwyis nor⁶ accoirding to the first probatioun. As to the secund pairt of the allegiance, the samyn contenis only ane repetitioun of the Dittay and taikinis, and mereitis na forder ansuer nor is ansuerit of befor. As to the thrid pairt, beiring that Ratihabitioune *equo paratur mandato*, and allegeing the first and thrid lawis *de vi et vi armata*; to that, it is ansuerit, that as, *in criminalibus*, Ratihabitioune is never relevant *per se*, sua the samyn can be comptit na cryme, nor na grund to convict the pannell; ffor in crymes, thair is thre thingis to be considerit, airt, pairt, and ratihabitioune: *Airt*, is command, or devyse, or counsell of doing of the deid; quhairrof we ar declarit innocent: *Pairt*, is participant of the ffact; quhairrof we ar lykwayis declairit innocent: *Ratihabitioune*, is allowing of the ffact, eftir the samyn be committit; quhilk is nawayis drawin bak to ony of the premisses, in criminall matteris: And albeit the said Williame had allowit in taking of the house, eftir it was tane and the deid committit, yit that makis thame nocht giltie of the ffactis or deidis committit be the personis takeris of the house, the tyme befor or eftir the taking thairrof. And feing the Witnesses

¹ Reaped. ² Tokens, evidence. ³ Knows. ⁴ Excepting the common report or talk of the country. Fr. *bruit*. ⁵ Past, besides. ⁶ Than.

examinat, be thair grit ayth, hes maid the pannell Innocent and clene of the ffactis lybellit ; as lykwayis, thay ar declairit Innocent, be ane condigne fuorne Inqueist, befor thair Judge-ordiner ; the Assyse can nawayis ffyle thame, except thay commit manifest Errour, and declair contrair to the probatioun alreddie led and deducet, and depone contrair to thair awin confience and knowledge.

SPECIAL VERDICT *of the Assise.*

THE ASSYSE removet altogidder furth of Court to pe Counfall-hous, quhair pai, be pluralitie of voittis, electit and choisit the said Alexander Fairlie of Braid in¹ Chancellor of the said Assyse ; and pairefter reffonit and voittit vpone the haill heidis and poyntis of the said Dittay ; and being ryplie and at lenth advysed pairwith, and with the haill taikines and writtis producet for verificationne pairof, allegiances and answers maid, *hinc inde*, in the said matter ; thay re-enterit agane in Court, quhair thay, be pe mouth of pe said Alexander Fairlie, ffand, pronuncet and declairit the saidis Williame Maxwell, Barbara Johnnestoun his spous, and pe said Elizabeth Stewart hir mojer, to be ffylet, culpabill and convict, as followis, viz. THE said *Williame Maxwell* of Gribtoun, to be ffylet, culpabill and convict off airt and pairt with the saidis Eduard Maxwell, broper to pe Laird of Couhaithe, Thomas Jardane callit of Birnok, James Jardane, servand to the said Johnne Lord Hereis, Johnne McBrair and Robert Johnnestoun callit of Brwme, of the violent taking of the said Tour and ffortalice of Newbie ; committit be the saidis fyve perfonas, the tyme contenit in the said Dittay. THE said *Elizabeth Stewart*, to be ffylet, culpable and convict off pe reffet of the saidis fyve perfonas, quha committit pe crymes specifeit in the said Dittay, and of the Ratihabitioun of pe violent taking of pe said Tour and ffortalice of Newbie : AND pe said *Barbara Johnnestoun* to be ffylet, culpable and convict of the Ratihabitioun of the violent taking of pe said Tour and ffortalice of Newbie, be pe saidis fyve perfonas takeris pairof. AND sielyk, ffand and declairit pe saidis Williame Maxwell, Barbara Johnnestoun his spous, and pe said Elizabeth Stewart hir mojer, to be Clene, Innocent and Acquit of the haill remanent crymes and poyntis contenit in the foirsaid Dittay, viz. of airt and pairt of pe vrsurpationn of our sone-rane lordis autoritie, in besageing of the said hous, convocationn of his Maiesteis leigis, beiring and weiring of hagbuttis and pistolettis, contrair the temour of the Actis of Parliament, Invaiding, schuitting, hurting and wounding of pe saidis Robert Johnnestonn, Eduard Johnnestoun and Airthour Johnnestoun, his hienes frie subiectis ; and Invaiding and taking of thame captives and prissoneris, be way of Hamefukkin and ffoirthocht ffellonie, binding of pair handis behind pair bakis, and schuitting and expelling thame violentlie furthe of the house and ffortalice foirsaid ; committit be pe saidis fyve perfonas, takeris pairof, pe tyme and in maner aboue writtin, mentionet in the said Dittay.

Jun. 25.—The Justice continued the case to the 28th of Junij. ‘Plegio, Alexandro Stewart de Gairleis, sub pena in Acto predict.’

Jun. 28.—Alexander Stewart of Gairleis become pledge and fouertie for Williame Maxwell of Gribtoun, &c. to enter and present thame befor the Justice and his deputis, in the Tolbuith of Edinburgh, the thrid day of Julij nixtocum, in the hour of cause, to heir dome pronuncet vpone thame ; vnder the panes following, viz. ffor the said Williame, vnder the pane of V^m li. (£5000,) and for the saidis Elizabeth and Barbara coniunctlie, vnder the pane of vther fyve thousand pundis.

Jul. 3.—Alexander Stewart of Garleis of new becomes pledge and fouertie, that thai and ilk ane of thame fall compeir befor the Justice or his deputies.

¹ To the office of.

quhair evir thay or ony of thame fall be charget, vpone xv dayis wairning, to heir and fie dome promneet, &c. ilk ane of thame vnder the pane of tua thousand merkis. Maxwell binds himself to 'warrant releif and keip skaythles' the said Alexander Stewart.

Slaughter.

JUN. 26.—JAMES GLEDSTANES of that Ilk.

Dilaitit ffor airt and pairt of the Slauchter of vmq^{le} Thomas Peiblis, burges of Peiblis; committit in the moneth of Februare, 1^mV^c.lxj yeiris, vpone the landis of Kaidmure, belyde the said burgh of Peiblis; vpone set purpois, proniounne and floirthocht fellony.

PERSEWERIS.

Thomas and Johnne Peiblis, as fones; Johnne and David Peiblis, fones to the said Thomas, (Junior.)

PRELOCUTORIS for the pannell, Laurence Scott.

The pannell tuik him to our souerane lordis Respett, producet be him, vnder his Maiesteis Priuie Seill, of the dait the . . . day of Junij instant.

It is allegit be the perseweris, that the Respett producet be the pannell aucht nocht to be admittit, in respect the samyn is grantit contrair to the Act of Parliament; na Letter of Slanes being grantit be thame, for Assythement of the partie.—It is answert be the pannell, the allegiance aucht to be Repellit, in respect of the Respett; and that thai ar willing to fatisfie, conforme to the lawis of this realme, and offeris Cautiounne to that effect.—Quhilk Respett the Justice admittit, and ordanit the said James to find cautounne, &c.: Lyk as, Johnne Gledstanes of Wynnintoun-hauch and Mr Johnne Rutherford, bailzie and burges of Jedburgh, become bundin and obleist, coniunctlie and feuerallie with the said James Gladstanes of that Ilk, his selff, to fatisfie the partie for the Slauchter of the said vmq^{le} Thomas Peiblis.

Murder under Trust.

JUN. 27.—JAMES KYNNAIRD, sone to the Laird of Incheture,¹ Williame Haitlie in Balgawie, Williame Kynnaird, sone to the Laird of Kynnaird.

Dilaitit, accuset and persewit be Siluester Chopman in Kinclavin, conforme to our souerane lordis Letteris, raist and direct at the instance of Marioun Chopman, as mother, Margaret Scherp, as sifter, the said Siluester Chopman and Thomas Chopman in Ragolny, as mother-brether,² with the remanent kyn and freindis of vmq^{le} Johnne Scherpe, seruitour to the Laird of Ruthven, aganis the saidis Williame, &c. and als aganis James Ramsay in Flacraig-mylne; as thay that war culpable and giltie of the crymes contenit in the DITTAY following.

¹ Vmq^{le} Patoun Kynnaird.

² Maternal uncles, mother's brothers.

FORSAMEKILL as the saidis Williame Kynnaird, &c. haifing laitlie, vpone the ffyft day of July, the yeir of God, I^m. fax hundreth and thre yeiris, conuenit thame selfis within the toun of Rait, quhair the said vmq^{le} Johnne Scharp was for the tyme, attending¹ the cuning of certane his freindis and gentilmen that war at the buriall of the Laird of Bandane, and doand vtheris his lauchfull effairis and buffines, lipning for na harme, iniurie or perfute of ony perfones, bot to haif leuit vnder Godis peax and our fouerane lordis: And thair, in all hamelie and freindlie maner, come to the said vmq^{le} Johnne, and requeistit him to pas with thame to the drink; quha, vpone meir simplicitie and benevolence, past to ane drinking hous with thame, and haifing fallin in reffoning with the said vmq^{le} Johnne, anent sum speiches that past betuix him and the said James Ramfay in Flacraig-mylne a few dayis befor; the saidis perfones in the meane tyme directit one of thair companie for the said James Ramfay, desyreing him to cum to thame, and thay fould affist him to be revenget on the said vmq^{le} Johnne: At quhais cuning, the foirsaidis perfones, togidder with the said James Ramfay, being all bodin in feir of weir, with fuordis, quhingeris, gantilletis, plait-flevis and vtheris wappones, *inuafue*, incontrair the tennour of the Actis of Parliament, sett vpone the said vmq^{le} Johnne Scherp, vnder trest, and maist trateruflie and barbaruflie, everie ane of thame with thair drawin wappones foirsaidis, perfewit him for his slauchter; and as murthereris, thevis and brigganis, haifing drawin the said vmq^{le} Johnne to drink, as said is, strak the said vmq^{le} Johnne in dynerfe pairtis of his body, and gaif him nyne bludie and deidlie woundis, viz. thre straikis in his heid, thre in his bak, ane throw his wambe, ane vther vnder his okter, and tua vpone his fchoulder blaid: Off the quhillkis straikis and crewall woundis the said vmq^{le} Johnne immediatlle deceifit amangis thair handis. And the saidis perfones, and ilk ane of thame, ar airt and pairt of the said crewall Murthour and Slauchter, committit vnder trest, vpone fet purpois, prouifoun and foirthocht felony; in hie and manifest contempt of our fouerane lord, his hienes auctoritie and lawis; and to the evill exampill of vtheris, his Maieftis obedient fubiectis, to commit the lyk fchamefull and barbarus crueltie and Murthour, in tymes cuning, gif the foirsaidis perfones committeris thair of be fufferit to remane vnpwneifchet.

VERDICT. Lauchfull tyme of day biddin, and (the perfeweris) nochit compeirand,² the Justice-depute patt the saidis Williame, &c. to the knowledge of ane Affyse, who all in ane voce, be the mouth of Robert Hog in Gally, sumtyme fervand to my Lord Marfchell, chancellor, ffand the saidis Williame, &c. to be Clene, innocent and acquit of airt and pairt of the felloune and crewall Slauchter of the said vmq^{le} Johnne Scherp, and haill circumftances aboue writtin. Quhair-upoune the saidis defenderis askit instrumentis.

[*Mr Williame Hairt and Mr Williame Borthuik, Juffices-Deputes.*]

Mafterful Cheft — Stouthreif — Lifting of Cattle, &c.

JUN. 28.—JOHNE ELLOTE of Copfchaw, Robert Ellote, his fone, Johnne Rutledge and Adam Rakefe, fervandis to the said Johnne.

Being enterit on pannell, quha war fummond be vertew of our fouerane lordis letteris, purchest at the instance of Hectour Trumbill of Wauchope, Thomas Trumbill, younger of Wauchope, George Trumbill, fecund lauchfull fone to the said Hectour, George Trumbill in Wauchope, Thomas Scheill thair, Hob Olipher thair, Harie Trumbill thair, Pait Trumbill thair, Gawin Trumbill in Bullerwall,

¹ Waiting. Fr. *attender*. ² The matter had been compromised with the relations of the deceased, &c. and by the absence of the pursuer, and no evidence being produced, the Jury acquitted the pannel.

Adame Trumbill in Wauchope, and Eduard Scheill in Langhauch : And persewit be the saidis Thomas T. younger, and George his brother, for thame selffis, and in name and behalf of the said Hectour Trumbill of Wauchope thair fader, and haill remanent perfonessaboue writtin, thair tementis, of the crymes following.

DITTAY against the Pannels.

FORSAMEKILL as the saidis Johnne Ellote, &c. with thair complices, to the number of ane Hundreth perfoness, allswell brokin-men and borderaris of England, as of Scotland, all bodin in feir of weir, with jakis, speiris, fleil-bonnettis, lances, lang-lagbuttis, daggis and pistolettis, expresse prohibeit to be borne, worne, vsed or schote with, be the Actis of Parliament, laitlie, in the moneth of September, the yeir of God, I^m. fax hundreth and tua yeiris, come opinlie, in the day lycht, to the landis of Wauchope; and thair, be way of Maisterfull thift and Stouth-reif, staw, rest and away-tuik, of the saidis landis, fourfcoir of ky and oxin, ane hundreth scheip, and tuelf horse and meiris, pertening to the saidis persfeweris; had and convoyit the samyn away with thame, and disponit thairupoun at thair pleasour: And thay and ilk ane of thame ar airt and pairt of the saidis crymes of Thift and Stouth-reif; ffor the quibilk thay aucht and fould be pwneisheit, conforme to the lawis of this realme, in exampill of vtheris.

PERSEWERIS, Thomas Trumbill, younger of Wauchope, George Trumbill, his brother.

PRELOCOUTOURIS for the pannel, Mr Alexander King, Robert Elliot, Mr Thomas Henderfoune.

The persfeweris protestis for Wilfull Errour, in caice thay acquit; in respect of the notorietie of the fact, and that thay haif gewin thair aithes thairvpoun.

Hectour Trumbill, elder, and the remainder of the pursuers, find Robert Home, younger of the Heuch, as cautioner, that they shall ratify whatever Thomas and George Trumbill do in their names, in this persuit; and 'William Erle of Angus band and obleist him, his airis, executouris and successouris to warrand, releif and keip skaythles the said Robert Home, his airis, executouris and assignais, of his cautionurie foirsaid, and of all danger, perrell and expensfis that he may incur thairthrow.'

VERDICT. The Assyse, be the mouth of Robert Wauch of Keip, chancellor, stand the saidis perfoness to be Cleane, innocent and acquit, &c. Quhairupoun the saidis perfoness on pannell askit instrumentis.

[*Mr Williame Hairt, Justice-Depute.*]

Mutilation and Demembration.

Jul. 2.—JOHNE HAMMILTOUNE, Persone of Crawford-Johnne, Airthour Colquhoun, than his servand, now in Kirmure, Gawin Murray of Vdstounheid.

Dilaitt of airt and pairt of the Hurting, Wounding and Mutilatioun of Alexander Lokhart, Tutour of Wikketschaw, of his left hand, and demembring of him of his mid-finger, nerrest his littill finger, of his said hand: And beiring and weiring of pistolettis; committit in Apryle, I^m.V^c.lxxxv yeiris.

Robert Chancellor of Sheilhill become pledge and fouertie, that thai and ilk ane of thame fall compeir befor the Justice or his deputis, the thrid day of the nixt Justice-air of Lanerk, or soner, vpone xv dayis wairning, to vnderly the law, &c.

Slaughter.

Jul. 3.—CHAIRLES CARUTHERIS of Warrambie.

Dilaitit of airt and pairt of the Slauchter of vinq^{le} Roger Gordoun in Lochinkitt.

PERSEWER, Roger Gordoune, brother-sone.

Continued to the air of ‘ Annandaill, tertio Itineris, (vel super premonitione,) xv dierum.’

Forcing (Rape.)

Jul. 3.—WILLIAME BELL, workman in Edinburgh.

Dilaitit, accuset and persewit be Jonet Falconer in Karingtoun, ffor the fforceing of hir aganis hir will ; and drawing hir furth of the way at Boddorne-mure, betuix Caringtoun and Lefuaid, and abusing hir in ane coill-pott-hoill ; scho being ane young maid of tuelf 3eiris of age, or thairby, &c. ; committit the xxj day of Junij lasthyast, about tuelf houres in the day.

VERDICT. Eftir accusatioun of the said Williame Bell, be Dittay, of the saidis crymes, and verifiocatione thair of be the said Williamis Depositiones ; the Assyse, be the mouth of James Ramfay in Caringtoun, chancellor, stand, pronuncet and declairit the said W^m Bell to be flylet, culpable and convict of the saidis crymes.

SENTENCE. To be tane to the mercait-croce of Edinburgh, and thair to be hangit vpone ane gibbet, quhill he be deid ; and all his moveabill guidis and geir to be escheit, &c.

Slaughter.

Jul. 4.—JAMES TAIT in Kelfo, brother to George Tait of Bairerfe.

Dilaitit, accuset and persewit by Williame Tait of Chirritreis, as father, Williame and Johnne Taittis, his sones, as brether, with the remanent kyn and freindis of vinq^{le} James Tait, sone to the said Williame Tait of Chirritreis, off airt and pairt of the crymes following, viz.

FORSAMEKILL as the said James Tait in Kelfo, with his complices, being all bodin in feir of weir, with fuordis, knapska-bonnettis,¹ lances and pistolettis, expresse prohibeit to be borne, worne, vsed or schot with be our souerane lordis Actis of Parliament, in the moneth of July, the yeir of God Im.Vc. lxxxvij yeiris, haifing confauet ane deidlie feid, rancour and malice aganis the said vinq^{le} James Tait, come to the Grene of Chirritreis, quhair the said James was, in sober and quyet maner, &c., and thair fet vpone him, and with thair pistolettis and fuordis, maist schamefullie, crewallie and vnmereifullie slew the said vinq^{le} James Tait : And the said James Tait in Kelfo is airt and pairt of the said slauchter ; committit vpone sett purpois, prouisioun and foirthocht felony, in hie and manifest contempt of our souerane lord, &c.

PERSEWERIS, Williame Tait, Johnne Tait, as brether.

PRELOCUTOURIS for the pannel, Mr Thomas Craig, Mr Thomas Henderfoune.

VERDICT. The Assyse, (amongst whom, Thomas Ker of Pryoraw, Thomas

¹ A steel bonnet, or skull-piece.

Tait of the Hoill, and Johnne Ryddell, appeirand of that Ilk¹) be the mouth of Johnne Mow of that Ilk, chancellor, ffind the said James Taitt in Kelfo, to be Cleane, innocent and acquit of airt and pairt of the said Slauchter. Quhairvpone he askit instrumentis.

[*Mr William Boirthuik, Justice-Depute.*]

Perjury before the Lords of Council and Session.

Jul. 10.—MR WILLIAME CARBRAITHE (GALBRAYTHE), sumtyme Minister at Pennycuik.

Dilaitit of Periurie, in deponing contrair to his former Depositiones, eftir he was re-examinat thairupone, in the cause perfewit be the Tennentis of Laffudlane, contrair Sir Johnne Ker of Hirfell, knycht.

DITTAY *against the Pannel.*

FORSAMEKILL as the said Mr Williame Galbrayth, compeirand befor the Lordis of Counfall and Sessioun, vpone the thrid day of July instant, as he that was sammond to compeir befor the saidis Lordis, to heir witnessling in the cause perfewit be the Tennentis of Lessudane aganis Sir Johnne Ker of Hirfell, knicht, anent the resait of certane evidentis and writtis be the said Sir Johnne, pertening to the saidis Tennentis, maid his Depositionne as followis, viz.—‘MR WILLIAME GALBRAITHE, Minister, of the age of fourtie yeiris, or thairby, *solutus*,² Deponis, that in the yeir of God 1^m.V^c. four-score sevintene yeiris (the speciall tyme and day rememberis nocht,) the Deponar, being in James Kingis chalmers in Edinburgh, quhair he presentlie duellis, quhair he saw present, for the tyme, Sir Johnne Ker of Hirfell, knicht, ane of the defenderis; Oliver Sincler of Ravinsnuk; Enoche Dewar, servand to the said Olipher; Adame Scheill, servand to v^mq^{le} Mungo Tennent, and the said James King; and in all the saidis perfonas prefens, Oliuer Sincler presentit vpone the buird,³ in all thair prefens, ane littill box, coverit with ledder, of Flanderis mak;⁴ and the said Oliuer said to the said Laird of Littildane, “Thir ar the writtis quhilk I promiseit to lat 3ow sie;” and then the box being opnit, James King tuik out all the saidis evidentis furth of the said box, in all thair prefens, and red the samyn, ane be ane. *Interrogatus*, vpone the perticuler contentis and daitis of ilk ane of the saidis evidentis, rememberis perfytlie, that all the evidentis than red be the said James King maid mentioun and dispositioun of the landis of Lessudane and Newtown; and rememberis that ane of the saidis Chartouris bure dispositioun of the foirsaidis landis of Lessudane and Newtown to Airthour Sinclair, and his airis mentionat thairin; and rememberis nocht of ony forder particuler contentis of the foirsaidis evidentis; bot fayis, that thair was ane grit quantitie of thame, all in parchement, and haiffand feillis: And immediatlie efter the reiding of the saidis writtis, thay war all put within the said box agane; and ane Obligioun maid and writtin in all the foirsaidis parteis prefens, beirand the said Sir Johnne Ker to be bundin and obleift to the said Oliver Sincler in the sowe of Fyve hundreth merkis money, how sone he or ony of his sould obtene the richt of the landis of Lessudane: And this Deponer saw the said Sir Johnne Ker subserue the said Obligioun; and James King and this deponer subseruyit the same Obligioun, as witnes: And at the samyn tyme, Sir Johnne Ker and his servandis tuik away the said box with thame, and the said Oliuer Sincler tuik the said Sir Johnne Keris Band with him; and sen that tyme, the deponer neuer saw ony of the foirsaidis evidentis, in ony of the defenderis handis, nor in nane vther perfonas handis; *reddens causam scientie*, becaus this Deponer was present, hard and saw as he deponit.’—ESTIR the making of the quhilk Depositionne, the said Mr Williame Galbraithe being re-examinat, vpone the fourt day

¹ The remainder are fenars.

² According to more modern form, ‘purged of malice and partial counsel.’

³ Board, table.

⁴ Manufacture, workmanship, *make*.

of July instant, in prefens of my Lord Chancellor and haill remanent Lordis of Seffioune, he past fra his former Deposition, maid be him the said thrid day of July, and declairit the samyn Deposition to be altogidder ffals and vntrew in the self; and that he was nevir in James Kingis Chalmers, quhair he saw the evidendis delyuerit to Sir Johnne Ker, nather yit saw he euir Oliver Sincler and Sir Johnne Ker, togidder, in James Kingis chalmers; nor newir saw ane Obligation subferyuit be Sir Johnne Ker to Oliuer Sincler; nor nevir subferyuit the samyn as witnefs: And being inquyret, quha movit him to mak the said Depositionne? Declairit, that Dandie Plumbur schew him ane Obligation, extractit and subferyuit be the Clerk of Register, allegit subferyuit be Sir Johnne Ker, quhairin he was witnes, as was allegit; and bad him Depone, conforme to the Obligation: The quhilk Obligation, eftir the ficht thairof, movet the deponer to depone as he deponet; and said, that he gat only fra Dandie Plumbur his dennar, yisterday, and fourtie schillingis eftir his dinner. As at mair lenth is contenit in the saidis Depositiones. BE the making of the quhilkis tua contrair Depositiones, the said Mr Williame Galbraith hes schawin him self to be manifestlie Periuret, ffalse, and vntrew: For the quhilk Periurie and ffalsset he aucht and fould be puneifchet, conforme to the Lawis of this realme, in exam-pill of vtheris.

Quhilk cryme aboue writtin, the said Mr Williame confessit to be of veritie; and offerit him self, and become in our foverane lord and his hienes Counfallis Will for the samyn; quhome the Justice ressaunt in will. And thairfoir the said Justice-depute, at command and for obedience of ane Warrant directit to him, of the dait, the tent day of July instant; subferyuit be my Lord Chancellor and vtheris Lordis of his Maiesteis Secreit Counfall; quhairof the tennour followis.

DECIMO Julij, 1605. THE Lordis of Secreit Counfall ordanis the Justice-generall and his deputis to gif this dome following, vpoun Mr Williame Galbraith, eftir that he be convict of Periurie befoir thame, or pat he becum in will, viz. That he fall be tane to the mercait-croce of Edinburghe, with ane paiper on his heid, declairand him to be Men-sworne, Perjurer and Infamous, and to Banishe him the Ile of Britane for euir: And that he depairt furth of the said Ile, betuix and the fyftene day of August nixtocum; and gif euir he repair within the samyn Ile agane, without the Kingis Licence, or 5it fall remane within the samyn, and nocht depairt furth pairof, betuix and the said fyftene day of August nixtocum, that he fall be execute to the daith, without any forder dome to be gevin vpon him.

(Sic subferibitur) AL. CANCELL(arius,) SECRET(arius,) QUIHITTINGHAM, R. COKBURNE.

SENTENCE. The Justice, be the mouth of James Henderfoune, dempfter of Court, decernit and ordanit the said Mr Williame Galbraith to be tane to the said mercait croce of Edinburghe, and thair to stand, for the space of ane hour, or thairby, with ane paper vpon his heid, contening thir woirdis, in grit letteris, ‘MENSUORNE, PERIURET AND INFAMOUS:’ And to be Banischet the Ile of Britane for euir, &c.¹

[*Mr Williame Hairt, Justice-Depute.*]

Sorcery — Witchcraft, &c.

Jul. 23.—PATRIK LOWRIE, in Halie (Ayrshire.)

Dilaittit, accuset and persewit, be Sir Thomas Hammiltoun of Monkland, knyght, aduocat to our foverane lord, for his hienes entreis, off the crymes fol-

¹ The terms of the Council's Warrant are recited.

lowing, viz. FOR consulting with vmq^{le} Jonet Hunter, ane notorious Witche, and quha was execute to the daith for Sorcerie and Witchcraft: Quhilk vmq^{le} Jonet and the said Patrik, at Witfouday, in the yeir of God I^m.V^c. and four yeiris, convenit thame selffis vpon the cownoun waist Sandhillis in Kyle, maist ewest¹ to the burgh of Irwing; quhair the Devill appeirit to thame and conferrit with thame, vmq^{le} Katharene M^cTeir, ane vther Witche in Halie, and Margaret Duncane in Lones being also in companie with thame, at the samyn tyme. AND siclyk, the said Patrik, being in company with the saidis vmq^{le} Jonet Hunter, Katharene M^cTeir and Margaret Duncane, Witches, Sorcereris and abuseris of the peopill, att Hallowevin, in the yeir of God foirsaid, assemblit thame selffis vpon Lowdon-hill, quhair thair appeirit to thame ane devillische Spreit, in liknes of ane woman, and callit hir selff Helen M^cbrune; att the quhilk tyme, efter lang consultationne had be thame with the said wikkit Spreit, the Devill, in the liknes of the said Helen M^cbrune, presentit to the said Patrik ane hair belt; in ane of the endis of the quhilk belt appeirit the similitude of foure fingeris and ane thombe, nocht far differrent frome the clawis of the Devill: Lyk as, the samyn belt, being presentit be the said Jonet Hunter to the persones that past vpon hir Assy^{se}, the tyme of hir Convictionne for the said cryme of Witchcraft, was brunt in ane fyre. LYK AS, at dyuerse tymes thaireftir, thay assemblit thame selffis, in dyuerse Kirkis and Kirk-⁵airdis; quhair the said Patrik, and remanent his associatis foirsaidis, raist and tuik vp findrie deid persones furth of thair graves, and dismemberit the saidis deid corporis² for the practizeing of thair Witchcraft and Sorcerie. ITEM, for airt and pairt of the Bewitcheing, be Inchantment and Sorcerie, of Bessie Saweris coirnes, and taking away the substance and fisnowine³ thair of, be the space of ten yeiris, yeirle aftir vtheris.⁴ ITEM, for airt and pairt of the Bewitcheing of certane milk ky, pertening to Johnne Fergushill, younger in Halie, at Beltane, I^m.Vj^c. and foure yeiris; quhairby the said ky gaif na milk bot bluid and worsome⁵ thaireftir. ITEM, ffor cureing, be Inchantment and Sorcerie, of vmq^{le} Margaret M^cguffok, callit ‘the Witch of Barneweill,’ hir horse, quhairon scho raid; committit a tuentie yeir syne, or thairby. AND siclyk, ffor laying on of Sorcerie and Inchantment and devillery vpon Jonet Lowrie, the streking of hir blind; and be cureing and taking af of the said Witchcraft af hir agane, and restoiring hir to hir former sight. ITEM, for cureing and helping, be Inchantment and Sorcerie, of Elizabeth Craufurdis bairne in Glesgow, quha had bene deidlie seik of ane strange incureabill diseise, be the space of aucht or nyne yeiris of befoir, be taking ane clayth af the said bairnes flace, and sayneing and

¹ Nearest.² This seems to have been a favourite practice. It is elsewhere called ‘*junting*,’ (jointing) as may be seen in the description of the midnight orgies of Annie Samson and others of the unhappy wights who suffered for their deceptions of this sort.³ ‘*Fushion*’ (*foison*,) pith, strength, flavour, &c.⁴ For ten successive years.⁵ Blood and purulent matter.

croceing with his hand the said bairnes face; keeping of the said clayth, be the space of aucht dayis; and thaireftir, haifing returnit to hir with the said clayth, couerit hir face agane thairwith, quha fleipit a tua dayis altogidder, and walknit nocht; and at the tua dayis end, ane of the said barnes eyne, that was ofbefoir tynt, throw the said diseafe, was restoirit to hir; and within fyve dayis thaireftir, the said barne was, be the said Inchantment, curet and mendit be the said Patrik. AND finallie, for ane Cowmone and notorious Sorcerer, Warlok and abuser of the peopill, be all vnlawfull charmes and devillische Incantationes, vset be him, this xxiiij yeir bygane.

For the quhilkis crymes *respectiue* aboue writtin, the said Patrik Lowrie was put to the knowlege of ane Assyse.—The Aduocat askis instrumentis of the fweiring of Assyse.

MR DAVID MYLL,¹ being sworne, att the defyre of Patrik Lowrie, to mak Declaration of his brute² and behaviour; deponit that he wes bruteit and comounlie callit ‘Pait be Witch!’ And declaris, he gatt his fatheris malesoune,³ and said he wald mak ane ill end: And declaris, that he wes ordanit to mak his repentance, for the brute and sklander he sustenit; and that he maid his repentance.

And thaireftir the said Patrik Lowrie defyrit the Justice and Assyse to trow⁴ the said Mr Danid Myll.

My Lord Aduocat protestis for Wilfull Errorr, in caice thay acquit him of the Dittay.

VERDICT. Eftir accusation of the said Patrik, be Dittay, of the crymes *respectiue* aboue specifeit, and verificationn of the samyn, be productionn of certane writtis be the said Sir Thomas Hammiltoun, aduocat; the Assyse, all in ane voce, be the mouthe of Johnne Wallace in Lonesse, chancellor, stand, pronuncet and declairit the said Patrik to be flylet, culpabill and convict of the haill crymes *respectiue* aboue specifeit.

SENTENCE. The said Justice-depute decernit and ordanit the said Patrik Lowrie to be tane to the Castell-hill of Edinburgh, and thair to be wirreit at ane staik, quhill he be deid; and thaireftir, his body to be brunt in asches; and his haill moveabill guidis and geir, gif he ony hes, to be escheit, &c.

Fire-raising — Taking Captive and Prisoner, &c.

Jul. 24.—INGRIE AIRMESTRANG in Inzieholme;⁵ Archie Airmestrang of Flaskholme.

Dilaitit of airt and pairt of the tressonabill Raifing of ffyre, [within the Houfe of the Langholme?] burning and destroying thairof, pertening to Harbert Max-

¹ Probably the Minister of the parish where this unlappy creature dwelt.
reputation. Fr. *bruit*.

² Curse, malediction.

³ Credit, believe.

⁴ Report, fame,
⁵ See Vol. II. p. 450.

wall of Kavenfe : Taking of the said Harbert captive and prisoner : Schuiting of hagbutis and pistolettis, &c.

Mathow Findlasoun of Killeyth become pledge and fouertie for Ingrie, and Archibald Batie, burges of Dumfreis, for Airchie Airmeftang, that thay fall compeir befor the Justice or his deputis, the thrid day of the nixt Justice-air of the scherefdome of Dumfreis or Stewartrie of Annandaill, quhair thay duell ; or soner, vpon xv dayis wairning, to vnderly the law, &c. ; aither of the saidis perfones vnder the pane of Fyve hundreth merkis money.

Slaughter.

Jul. 25.—GEORGE ANGUSE, notter ; James Blair, burges of Air ; David Kennydie of Corflis ; and Gilbert Grahame, younger of Craig.

Dilaitit of airt and pairt of the Slauchter of vmq^{le} Richerd Spens, fervand to the Erle of Cassillis.¹

PERSEWERIS, Richerd Spens, in Vgftoun, as father ; Robert Spens, his sone, as brother.

The perfeweris passis *simpliciter* fra the saidis George Anguse, &c. and declairis thame to be Innocent of the said Slauchter : Quhairupoun the saidis perfones on pannell askit instrumentis, and protestis for releif of thair cautioneris ; and that thai be nocht callit or perfewit for the said cryme, in tyme cuming.

Slaughter.

Jul. 26.—ALEXANDER BRUNTFEILD of Hardaikeris, and Nicoll Bruntfeild, sone to the Guidman of Eistfeild.

Dilaitit of airt and pairt of the Slauchter of vmq^{le} Johnne Bruntfeild, younger in Tennendrie.

PERSEWER.

Robert Bruntfeild, as brother.

PRELOCUTOURIS for the pannell.

Mr Johnne Ruffell, Mr Williame Oliphant.

It is allegit be the pannell, that the defunct, for quhais slauchter thai ar perfewit, was slane at the horne, for four fenerall caussis, contenit in the four Hoirningis presentlie producet be the pannell : Vpon production quhairof, the pannell tuik instrumentis ; and the pannell protestit, that the producing thir Hoirningis fould nawayis affirme thame to be culpable of the factis lybellit.—Continued to Nov. 24.

Nov. 28.—Robert Bruntfeild, fear of Todrig, and Nicoll B. of Quhyte-hous become pledge and fouertie, conjunctlie and fenerallie, that thai fall compeir befor the Justice or his deputis, the thrid day of the nixt Justice-air of the scherefdome, quhair they duell (Roxburghe,) or soner, vpon xv dayis wairning ; vnder the pane of ane thousand merkis for the entrie of the said Alexander, and 500 for the said Nicoll.

¹ See Dec. 6, 1605.

Murder under Trust — Stouthreif — Adultery, &c.

Jul. 26.—WILLIAME ROISE of Dunkeithe.

Dilaitit, accuset and perfewit be Sir Thomas Hammiltoun of Mounkland, kny^t, Aduocat to oure souerane lord for his hienes interes, of the crymes following, viz.

FORSAMEKILL as it is statute and ordanit be our souerane lordis Actis of Parliament, that the Murthour or Slauchter of quhatsumewir his Maiesteis liegis, quhair the pairtie is slayne vnder traist, credite, assurance and power of the slayer, all sic Murthouris and Slauchteris to be committit in tyme cuning, eftir the dait of the said Act, quhilk is of the dait the xxix day of Julij, the yeir of God, 1st. Vth. lxxxvij yeiris, the famin being lauchfullie tryit, and the persoune dilatit, ffund giltie be ane Assyse thairrof, falbe Treafoun; and the persounes fund culpabill fall fforfalt lyffe, landis and guidis: As the said Act att mair lenth beris. And trew it is, that the said Williame Roise, haifing concludit in his haert the crewall Murthour and Slauchter of vmq^{le} Alexander Gybfoune in Nig; ffor performance of his wicket intentionn, he, accompaneit with Farquhair Roise, domestik fernitour to Nicolas Roise of Pitcalany, Andro Graffich, sone to Alexander McGilliepedder and Thomas Mcconchie, vpoune the fourt day of Februar lastbypast, being Monunday, he being vnder freindschip and familiaritie with the said vmq^{le} Alexander, trylit to meit the said vmq^{le} Alexander, in Huchfoun Brabneris hous in Pitcallene; quhair the said Williame Roise and his compliceis foirfaldis, in ane maist freindlie and loving maner intertineit, vnder traist of assurance, the said vmq^{le} Alexander all the day, till the ewening, drinking and making mirrie: And about aucht houris att ewin, vpoune the samin day, being ane dark nycht, baith mark and moneles,¹ convoyit and brocht the said vmq^{le} Alexander furth of the said Huchfoun Brabneris hous, and causit him to vnderstand that he wald transpourt him to his awin hous; att the quhilk tyme, he maist treffonablie drew and convoyit the said vmq^{le} Alexander out of the way, to ane burne-lyde, nocht far distant fra the said Huchfounis hous, he being than vnder the said Williamis traist, credite and assurance, lipning for na harme, iniurie or hurt to haif bene done to him be the said Williame and his complices, that war with him in his company, bot to haif bene preferuit and defendit be him thair. Efter the said Williame, in forme of freindschip and familiarite, desyrit the fycht of the said vmq^{le} Alexanderis fword, the said Williame and his complices maist treafonablie disarmit him of his armour and wappinnis that wes about him, and maist treafonablie mordreift and slew him, ffyrst be ftryking aff his . . . hand, nixt be gewing to him ane crewall and deidlie straik in his heid, with ane half lang fword, and diueris vtheris crewall and deidlie woundis in diueris vtheris pairtis of his body; and thairby, maist crewallie and treffonablie, vnder traist, freindschip and assurance, mordreift and slew the said vmq^{le} Alexander Gybfoune; and he wes airt and part of the said crewall and treffonabill Murthour; ffor the quhilk he aucht and fould be pwneist as ane Traittour, viz. be ffoirfaling of his lyffe, landis and guidis. To the takin² that he wes culpabill of the said treffonabill fact, he immediatlie eftir the committing of the said crewall Murthour, and to the intent the famin fould nocht haif cum to lycht, he delyuerit to the said vmq^{le} Williame McStein, his cotter, the foun of foure schilling, and the said Farquhar Roise gaif vther four schilling, to the said Andro Graffich, for bureing³ of the said vmq^{le} Alexander in the eird,⁴ or casting of him in the sea: Lyke as, the said vmq^{le} McStein and Andro Graffich, being thaireftir tane and apprehendit for the said fact, be thair Depositionnis, grantit and confessit that the said Williame wes the principall ftrykear and mordreifar of the said vmq^{le} Alexander, with his awin hand; and att the place of execution, quhair thay sufferit, thay past to death thairwith. To the takin also, the said Williame Roisis being perfewit before our souerane lordis Justice, to haif vnderlyne the law for the said cryme, he past to the horne, and continewallie senfyne hes bene fugitiue thairfoir; as the Letteris presentit beris. ITEM, the said Williame, being indytit and accusit, ffor samekill as it is statute and ordanit, be diuerse our souerane lordis Actis of Parliament, speciallie, be ane Act of his

¹ Dark (*mirk*) and moonless.² In token or testimony.³ Burying.⁴ Earth, ground.

hienes ellewint Parliament, begun and hauldin att Edinburgh, the xxix day of Julij, 1^m.Vc.lxxxvij yeiris, that in caice it fall happin ony landit men to be lauchfullie and ordourlie convict of the crymes of Commoun Thift, Reffett of thift, or Stouth-reiff, in tyme cuming, thay fall incur the cryme and payne of Trefloune, that is to fay, tinfall¹ and fforsaltour of lyffe, landis and guidis; as the said Act att mair lenth beris. And trew it is, that the said Williame Roife of Dunkeith, being ane landit gentilman and heretour of the saidis landis of Dunkeith, accompaneit with the persones foirsaidis, his complices, immediatlie at the tyme of his treflonabill Murthuring and slaying of the said v^mq^{le} Alexander Gibfoun, in maner and at the tyme aboue writtin; he, be way of Maisterfull Thift and Stouth-reiff, treflonabillie, violentlie and thiftioullie staw, conceillit, reffett, rest and away-tuik, fra the said v^mq^{le} Alexander, the sowme of ane hundreth merkis money, or thairby, quhilk the said v^mq^{le} Alexander had vpone him, and in his purse, the tyme of the said Williame Roife committing of the said treflonabill Murthour and Slanebter foirsaid: and the said Williame is airt and pairt of the Stouth-reiff, steilling and away-taking of the said money; and thairthrow, the said Williame Roife, being ane landit gentilman, in maner foirsaid, hes committit manifest Trefloune, and the panes and pwneilhment specifeit in the saidis Actis of Parliament, viz. tynfall and fforsaltour of his lyfe, landis and guidis, aucht and fould be execute aganis him with all rigour, in exampill of vtheris. To the taikin, that he, being culpabill of the saidis treflonabill crymes of Thift and Stouth-reiff and Murthour vnder trest, the said Williame was perfewit criminallie thairfoir, befor the Justice and his deputis, to haif vnderlyne the law for the samyn, in the moneth of Maij last bypast, he than past to the horne, and hes bene continuallie senfyne fugitive for the saidis crymes: As the saidis Letteris of Hoirning, producet judiciallie be our said souterane lordis aduocat, at lenth proportionis. Lykas, be his awin Depositiones, he hes confessit the Murthour aboue writtin, and that he wes airt and pairt thairof. ITEM, the said Williame, being indytit and accuset, fforsamekill as he, haifing thir dyuerse yeiris bygane interteneit and keipit in companie with him Marie Rannaldoche, ane harlot, committing Adulterie with hir, he being mareit with v^mq^{le} Agnes Rose, his lauchfull spous, and the said Marie being with bairne to him, scho and v^mq^{le} Williame McStene, servand and hyred man to the said Williame, togidder with the said Williame him selff, consultit and concludit, at diuerse thair trystis and meittingis, the treflonabill Murthour of the said v^mq^{le} Agnes, his lauchfull spous, vnder trest, credeit and assureance; lyk as, for performance of thair wilket purpois and intentione, the said Marie, be the said Williame's directioun, gaif to the said v^mq^{le} Agnes, his spous, poysonet drinkis; quhilkis treflonabill drinkis, nocht haifing wrocht vpone hir to the deith, bot the samyn, at findrie tymes, being vomeitit bak agane be hir; and finding himselff disapoyntit be that treflonabill meayne,² and hir daithe postponit and delayit, he thairfoir of new consultit and devyfit with the said Marie Rannaldoche and Williame McStene, quba, in the moneth of May, 1^m.Vj^e. and foure yeiris, be the said Williame's speciall causing, directioun and command, maist treflonabillie, crewallie and vmercifullie Strangallit and wirreit the said v^mq^{le} Agnes, his spous, in her bed, within hir awin hous, vnder silence and clud of nycht; for performance quhairof, he promeit to the said Marie Rannaldoche to marie and tak hir to wyfe: Lyke as, the said Williame McStene, being apprehendit for the treflonabill Murthour of the said v^mq^{le} Alexander Gibfoun, and examinat be certane of the Ministrie³ and gentilmen of the cuntrie, Confessit and declairit that he, at the said Williame Rossis command and direction, accompaneit with the said Marie Rannaldoche, murtherit and treflonabillie strangillit the said v^mq^{le} Agnes, his spous; for doing of the quhilk treflonabill deed, the said v^mq^{le} Williame McStene Confessit he ressauit fra the said Williame, as ane rewaird for his panes, ane rig of beir,⁴ togidder with the baill clething that was vpone the said Williamis bak the tyme of the said Murthour, viz. his bonet, sark, coitt, doublet, breikis, hois, sokis and buittis. Lyk as, for testificatioun of the treuth of the said treflonabill Murthour, and that the said Williame was airt and pairt thairof, the said Williame, be his Depositiones maid in prefens of Mr Williame Hairt, Justice-depute, and the Bailleis of Edinburgh, the xxv of this

¹ Loss.² Mean, *Fr. moyen*.³ Clergy.⁴ Ridge of barley.

instant, hes confessit that the nycht appoyntit be him and his complices for performeing of the said tressonabill Murthour, he withdrew him self furth of his awin hous of Dunkeith, fra his said spous, to his chieff the Laird of Balnagounes house, quhair he remanit quhill midnycht; about the quhilk tyme, his conscience being sa tuchet and trubillit for the said tressonabill fact, quhilk, be his counfall and directionn foirsaid, was that nycht to be put in executionne, be the persones foirsaid, he arraise out of his bed, putt on his claithes and come to his awin house, of purpois (as he declairit) to haif slayit the said wicked fact: And he, finding the turne done afoir his cuning, he reteirit him self bak agane. Quhilk tressonabill fact he hes continuallie sensyne conceillit to the tyme of his Examinationn foirsaid. And thairthrow, he is airt, pairt, red and counfall of the said tressonabill Murthour and strangelling of the said vmq^{le} Agnes his spous, vnder tress, and aucht and sould be puneilhet thairfoir, conforme to the tennour of the said Act of Parliament. ITEM, the said Williame, being indyttit and accuset, that he, being ane landit Gentilman, as said is, with his complices, cownone thevis, in the moneth of . . . the yeir of God . . . thiftioullie, and be way of Maisterfull Thift and Stouth-reiff, staw, reft and away-tuik, fra Williame Micain M^cWilliame in Gany, tua scheip, had and disponet thairupoun at his pleasour; and he, being ane landit Gentilman, be committing of the said maisterfull thift and stouth-reiff, hes committit Tressone; ffor the quhilk, he aucht and sould be pwneischet, conforme to the said Act of Parliament. To the takin, he being challanget for the samyn, maid redrefs and satisfiounn to the said Williame M^cean, at command of Hucheon M^cTullie, his maister. ITEM, for airt and pairt of the thiftious Steilling, conceilling, resseting and away-taking of ane ox, fra James Corbett in Arkbole, in the moneth of . . . yeiris: And he, being ane landit Gentilman, hes thairby committit Tressone, &c. ITEM, for airt and pairt of the steilling, conceilling, resseting and away-taking fra Findla Mansoun, Minister in Nig, in the moneth of October 1^m, sax hundreth and foure yeiris, of sax geise, had and convoyit the samyn away with him, and disponit thairupoun: And the said Williame, being ane landit Gentilman, hes thairthrow committit Tressone, &c. ITEM, the said Williame, being indytit and accuset, ffor cuning with his complices, in the moneth of December, the yeir of God 1^m.Vj^e. and foure yeiris, to David Fairnes barne in Nig, and thiftioullie, vnder silence of nycht, brak the said barne, and staw, conceillit, resset and away-tuik furth thairof ane sek full of victuall, contening sax firlottis. To the takin, he come to the said David Fairne, and offerit to get the samyn tryit furth¹ to him, for ane rewaird; and he was airt and pairt of the thiftious steilling, conceilling and away-taking thairof; and thairfoir, he being ane landit Gentilman, hes incurrit the cryme and pane of Tressone. ITEM, for airt and pairt of the steilling, conceilling and away-taking of saxtene scheip, pertening to Alexander Mansoun, Donald Beroch and Andro Bane, in the moneths of October and November last-bypast, in the yeir of God 1^m.Vj^e. and four yeiris, had and convoyit the samyn away with him to the Craigs of Dunkeith, quhair he slew the said scheip and cast thair intrallis in the sea; and thairefter, careit the boukkis² thairof to his awin hous in Dunkeith, quhairin he and his complices did eit the samyn: And he, beand ane landit Gentilman, be committing of the said theft and maisterfull Stouth-reif, hes committit Tressone, and incurrit the panis contenit in the saidis Actis of Parliament. ITEM, for Cownoun thift, cownoun resset of thift, inputting and outputting of thift fra land to land, fra cuntrey to cuntrey, baith of auld and of new: And thairfoir, he being ane landit Gentilman, be committing thairof, hes committit manifest Tressone, and aucht and sould be pwneischet conforme to the Actis of Parliament, viz. be fforfaltour and tynfell of lyfe, landis and guidis, in exampill of vtheris to commit the lyk in tyme coming.

For the quhilkis crymes, the Justice-depute ordanit the said William Roise to be put to the knowlege of ane Assyse, of the persones following.

¹ Searched out, discovered.

² *Bulks*, carcases.

ASSISA.

Hucheon Roife, fear of Balmukie,	William Dumbar of Hemprigis,	Mark Mawer of Staynies,
Alex ^r Bane of Wefter Logie,	Walter Kynnaire of Cowbyn,	Mr James Dumbar of Taibett,
Donald Thorneitoun, burges of	Johnne Burgie in Haltoun,	Capitane Andro Bruce,
Edinburgh,	Alexander Watfoune in Grange,	Robert Dumbar of Burgie,
Mr Rannald Bane, burges thair	Alexander Cruikfchank in Lyttill	Patrik Dumbar of Blarie.
Ja Adamfoun, burges of Kinlofe,	Pynnrik,	

The Aduocat takis instrumentis of the fwering of the Affyfe; and that William Rose grantit the Slauchter of vinq^{le} Alexander Gybfoune.

The Pannel, befor his Convictione, declairis that Ferquhair Roife wes nocht in company with him at the slauchter of vinq^{le} Alexander Gybfoune; nather wes he ather airt or pairt of the faid Slauchter.

VERDICT. The Affyfe, be the mouth of the faid Mr James Dumbar, chancellor, all in ane voce, fand, pronuncet and declairit the faid William Roife to be flylet, culpabill and conviet of airt and pairt of the tressonabill and crewall Slauchter and Murthour of the faid vinq^{le} Alexander Gibfoune, indueller in Nig, committit the tyme foirfaid, vnder trest, affurance, freindschip and familiaritie, in maner aboue writtin: AND als, fand, pronuncet and declairit him to be flylet, culpabill and convict of airt and pairt, red and counfall of the tressonable Murthering, strangling and wirricing of the faid vinq^{le} Agnes Roife his spous, committit the tyme foirfaid, vnder trest, credeit and affurance, in maner as is aboue writtin: AND lykwayes, fand, pronuncet and declairit the faid William Roife, to be Cleane, innocent and acquit of the haill poyntis of Thift, quhair of he wes accusit be Dittay, in maner aboue writtin, and of everie ane of thame.

SENTENCE. For the quhilkis tressonabill crymes of Murthour, of the quhilkis he was convict in maner foirfaid, the faid Justice-depute, be the mouth of James Henderfoune, dempster, ordanit the faid William Rose of Dunskeathe to be tane to the mercait croce of Edinburghe, and thair his heid to be strukin fra his body: And decernit and ordanit all his landis, heritages, takis, steidingis, rowines, possessiones, coirnis, cattell, insicht pleniffing, guidis and geir, to be ffoirfaltit and escheit to our fouerane lordis vse, as convict of the faidis tressonabill crymes.

Slaughter — Shooting of Hagbuts and Pistolets.

Jul. 30.—DAVID JARDANE in Wandeldyke, Alexander Jardane in Wandell, Johnne Symfoun in Mylnhill, and twelve others.

Delaitit, accuset and persewit for the crymes following, viz.

FORSAMEKILL as the faidis David, &c. with thair complices, with convocatiom of our fouerane lordis leigis, to the number of tuentie-foure perfonas, or thairby, all bodin in feir of weir, with jakis, secreitis, speiris, steil-bonnettis, swordis, hagbuttis and pistoletis, expresse prohibeit to be borne, worne, vsed or schot with, be our fouerane lordis Actis of Parliament and Secreit Counfall, vnder dyuerse panes

contentit thairintill; haifing confauet ane deidlie feid, rancour and malice aganis vmq^{le} James Clelland¹ (in Vnder-the-bank,) in the moneth of Junij, the yeir of God 1^m. fyve hundreth fourfoir fourtene yeiris, came to Wandellholme, upon Clyde, besyde Davieschaw, quhair the said vmq^{le} James was, in fober and quyet maner for the tyme, ryding at the hunting, in company of Sir James Hammiltoun of Libbertoun, lipning for na harme, iniurie or perfute of ony perfones, bot to haif levit vnder Godis peax and his Maiesteis, and thair fett vpone him, schot and dilaschet² thair hagbuttis and pistolettis at him, quhairby thay schott him throw the body, and with suoirdis, quhingeris and remanent wappones foir-faidis³, hurt and wondit him in dyuerse pairtis of his bodie, to the effusoun of his bluid in grit quantitie: Off the quhilkis schottis and straikis, the said vmq^{le} James immediatlíe thaireftir depairtit this lyffe; and sa, the said vmq^{le} James Clelland was crewallie and vnmercifullie slane be the saidis perfones: And thay being all vpone the grund, pursuing him with suoirdis and remanent wappones aboue specifit, thay and ilk ane of thame ar airt and pairt of the said crewall Slauchter, committit vpoun fett purpois, provisoun and foirhocht felony; in hie and manifest contemptioun of our souerane lordis auctoritie and lawis, in ewill exampill to vtheris his hienes lieges to commit the lyk crewall Slauchteris,

PERSEWERIS, Gawin Kneilland, Roger Kneilland, as fones.

PRELOCUTOURIS for the pannell, Mr Johnne Ruffell, Robert Hammiltoun.

VERDICT. The Assyse, be the mouth of David Blair in Corflaw, chancellor, ffand, pronunceit and declairit the saidis Dauid Jarden, &c. to be Cleane, innocent and acquit of airt and pairt of the Slauchter of the said vmq^{le} James, and of the haill poyntis of Dittay aboue writtin.³

[*Mr Williame Hairt et Mr Williame Boirihuik, Justices-Deputes.*]

Slaughter — Shooting of Pistolets.

Aug. 6.—ARCHIBALD MAXWALL of Cowhill,⁴ and Williame Maxwall, appeirand of Cowhill, his sone.

Dilaitit of airt and pairt of the Slauchter of vmq^{le} Robert Maxwall of Kirkhill (Kirkhous, or Crovestanes,) committit in the moneth of Junij 1583 yeiris: And for beiring and weiring of pistolettis, contrair the Actis of Parliament.

PERSEWERIS, Williame Maxwall (of Kirkhouse,) Chairles Maxwall, James Maxwall, Robert Maxwall, Dauid Maxwall, Sir Thomas Hammiltoun.

PRELOCUTOURIS for the pannell, Mr Williame Oliphant, Mr Johnne Ruffell, Mr Alexander King, Sir Rob^t Maxwall of the Schottis, Williame Maxwall of Gribtoun, Eduard Maxwall of the Hillis.

DITTAY against the Pannell.

FORSAMEKILL as the saidis Archibald Maxwall of Cowhill, and Williame Maxwall appeirand of Cowhill, with thair complices, with convocatioun of our souerane lordis lieges, to the number of sax perfones, or thairby, all bodin in feir of weir, with svoirdis, secereittis, gantillertis, plait-slevis, lang hagbuttis and pistolettis, expresse prohibeit to be borne, worne, vsed or schot with, be our souerane lordis Actis of Parliament, vnder dyuerse panes contentit in the samyn, in the moneth of Junij, or thairby, the yeir of God 1^m. fyve hundreth fourfoir thre yeiris, vpone deidlie feid, rancor and malice confanet aganis the said vmq^{le} Robert Maxwall of Kirhous, for teynding⁵ of the said Archibald Max-

¹ Kneilland. The name was indifferently spelt Kneilland and Clelland, at this period. ² Old Fr. *deslascher*.

³ With regard to the rest of the pannells, the pursuers 'past fra' a number; and the remainder were 'repleget to the regalie of Dalkeyth, be my Lord of Mortoune.'

⁴ See Nov. 6, 1605.

⁵ Tything his lambs and other small tythes, as having a heritable right to the teinds or tythes of Cowhill. The drawing of small tythes was always considered an oppressive act in Scotland, and had for a long period been disused.

wall of Cowhillis lambes and vtheris small teyndis, thay sett vpon the said vmq^{le} Robert, vpon the landis of Redbank, lyand within the parochin of Kirkhous, and stewartrie of Kirkcubrycht, quhair he was, in sober and quyet maner for the tyme, doand his lesfull effaires and bussines, in teynding of lambes; dredand na evill, harme, iniurie or persute of ony persones, bot to haif levit vnder Godis peax and our souerane lordis; and thair, sehott thair hagbuttis and pistolettis at him, and maist crewallie, schamefullie and vnmercifullie slew the said vmq^{le} Robert Maxwell: And thai and aither of thame ar airt and pairt of the said crewall Slauchter; quhairby thay haif nochit only committit crewall Slauchter, vpon set purpois, prouisioun and foirthocht felony, bot in lyk maner hes contravenit the tennour of the said Actis of Parliament, in beiring, weiring and schuiting of hagbuttis and pistolettis, and hes incurrit the panes contenit thairin, quhilk aucht and sould be execute aganis thame with all rigour, in exampill of vtheris to abstene frome the lyk in tym cuming.

It is allegit for Williame Maxwell, younger of Cowhill, that the tyme of the committing of the fact lybellit, viz. in Junij, 1583, that he was nochit past xij yeiris of age, *et sic non doli capax*; and can nochit thairby be put to the knowlege of an Assyse, for the crymes lybellit; and offeris to prove his age instantlie.—It is answerit be the Aduocat, the allegiance aucht to be repellit, as nawayis releuant to stay the mater to pas to the knowlege of an Assyse, becaus all thingis *in facto* man be tryit be the Assyse: And albeit he had been minor, the contrair quhair of is maist manifest, yit the samyn procures na impunitie, in crymes of this natour; speciallie, being committit eftir the manner lybellit.

THE Justice, nochtwistandng of the allegiance, findis proces; and Remittis the cryme lybellit aganis Williame Maxwell to the knowlege of ane Assyse; and Remittis to the Assyse anent his age, to tak cognitioun thairin as thay think expedient.

It is forder allegit, that this matter can nawayis pass to the tryell of ane Assyse, becaus the pannell, in the moneth of Februare, yeir of God I^m.V^c. fourscoir aucht yeiris, hes obtenit our souerane lordis Respett, quhair of thair is dyuerse yeiris as yit to ryn: As the Respett producet beiris.—The Aduocat takis instrumentis of the production of the Respett, be bayth the persones on pannell. It is allegit, that the Respett is null, becaus the samyn is nochit past be the Thefaurer and the Register, conforme to the Act of Parliament. It is answerit, aucht to be Repellit, in respect of the Respett, quhilk is past the Previe seill.—It is forder allegit, that the Respett producet is null, in respect of the Act of Parliament, quhilk makis all Respettis to be null, the samyn nochit being grantit be satisfactioun of partie and Letter of Slaines¹ grantit be the pairtie thairvpoun.—It is answerit, that the Act of Parliament allegit, is only temporall.²

THE Justice declairis, during the tyme of this Respett, he will nochit, for the Slauchtir lybellit, put the pannell to ane Assyse.—Quhairvpoun the pannell askit instrumentis.

¹ A writ granted by the nearest relations of the deceased, acknowledging themselves to be satisfied for the slaughter. It frequently bore their consent to a free pardon by the King.

² Temporary.

The Aduocat producet the Kingis Maiefteis Letter, direct to the Juftice, &c. ; quhair of the tennour followis.

JAMES R.

JUSTICE, Juftice Clerk and your deputis, We greit 5ow weill. Forasmuche as Archibald Maxwell of Cowhill and Williame Maxwell his sone, being fummond to compeir befor 5ow, in our Tolbuith of Edinburgh, the saxt day of Auguft instant, to vnderly our law for airt and pairt of the Slauchter of vmq^{le} Robert Maxwell of Crovetanes, and for contravening our Actis of Parliament, in beiring, weiring and schuiting with hagbuttis and pistolettis, as We are informet, intendis to vse ane Respett allegit grantit to thame by ws, quhair of we nevir had ony knowlege: And gif ony be producet be thame, the same is fenifterassie purchest by our knowlege,¹ and contrair to our lawis, Actis of Parliament, and equitie. Thairfor, it is our will, and We command 5ow, that incontinent eftir the sight heir of, 3e put to ane knowlege of Assyse, for beiring, weiring and schuiting of hagbuttis and pistolettis: And gif thay be convict, that 3e caus pwneifch thame conforme to our Actis of Parliament, by cutting af pair rycht hand; and forder as our saidis Actis preseryues. And gif 3e delay the tryell of the Slauchter, vpoun the producioun of the said allegit Respett; than, eftir pair tryell and pwneifchment, for beiring and weiring of hagbuttis and pistolettis, in maner foirsaid, 3e fall put them in fure firmanee and keeping within the Tolbuith of Edinburgh, quhill we be adverteist of 5our proceedingis, and our forder Will be signifeit vnto 5ow pairant. This 3e fall nawayis fail to do, as 3e will anfuer pair-upoun: Quhairanent pir presentis fall be to 5ow sufficient Warrant. GEVIN at Houghtoun, pe penult day of July 1605.

And accoirding to the said Warrant, the pannell aucht to be put to the knowlege of ane Assyse.—It is anfuerit be the pannell, that the Kingis Maiefteis Previe Letter is na sufficient Warrant to derogat the Respett, past the Previe Seill; speciallie, in respect that sic privat Letteris ar reprobat be the Actis of Parliament.—It is anfuerit be the Aduocat, that sic previe Letteris as ar purchest for stay of justice, ar disallowit be Act of Parliament; bot this Letter is direct, of certane knowlege, and furtherance of justice, and pwneifchment of ane odious cryme.

THE JUSTICE findis as of befor, for the Slauchter allanerlie.

It is forder allegit, be the pannell, that that pairt of the Dittay, concerning the schuiting of ane hagbut, can nawayis be put to the knowlege of ane Assyse, becaus thair is ane Respett producet for the Slauchter; quhilk Respett is fund relevant for the Slauchter, to stay the pannell to pas to ane Assyse; and thair is na thing contenit in the Dittay, for schuiting, beiring and weiring of pistolettis and hagbuttis, bot that the defunct was slane with ane hagbut; quhilk is the maner how the said fact was committit: And as the fact is elydit be Respett, fa the maner of the committing thair of is superceidit be the said Respett; sua that, during the said tyme comprehendit in the Respett, nather can the pannell be put to the knowlege of ane Assyse, for the slauchter, nor schuiting of the hagbut, quhilk was the instrument be the quhilk it is allegit the deid was committit.—It is declairit be my lord Aduocat, in respect of the Justice Interloquitour, he Restrictis his fummondis only for persute of the pannell for beiring, weiring and

¹ By sinister means, procured without our knowledge.

schuitting of hagbuttis and piftolettis : And allegis, that the Refpett producet can nocht ftay proces for that cryme; becaus Refpettis, being odious of the Law, as grantit for impunitie of crymes and ftay of juftice to pairteis greivit, thay can nevir be extendit fauourabillie, be interpretation of the Judge, to ony forder nor (than) the exprefs woirdis thair of beiris : And thairfoir, the bering, weiring and fchuitting with hagbutis and piftolettis, being ane cryme pwneifheable of the Law, and nawayis mentionet in this Refpett, the pardon of the cryme of Slauchter, content in the faid Refpett, can nevir be extendit to the vther cryme of fchuitting with hagbutis, &c. ; speciallie, in refpect of the woirdis of the Refpett, pardonning the Slauchter allanerlie, and of his Maieftis Warrant producet ; quhilk removes all doubt that evir his Maieftie had intention to pardoun the cryme of the hagbuttis and piftolettis to the pannell.—It is anfwerit, that the Advocattis declaratioun alteris nathing the tennour of the Letteris, contentis thair of, and Interlocutour producet. Thair is na mention maid in the Letteris of beiring and weiring and fchuitting, bot only of ane fchot, be the quhilk it is allegit the Slauchter was committit : And forder, the Refpett producet is nocht only extendit to the Slauchter, bot all that mycht follow thairupoun ; quhilk was the fchuitting of the hagbut, be the quhilk the Slauchter was committit : And quhair it is allegit, that the Refpett grantit for ane cryme can nocht be extendit to ane vther, aucht to be repellit, in refpect of the Refpett, and the coniunction of the factis : And forder, of the Law and practik of this realme, ane Refpett or Remiffioun grantit of ane gritter cryme comprehendis lefs crymes, albeit na mention be maid of the lefs ; speciallie, haifing confideratioun, quhan the lefs crymes ar ane pairt of the gritt cryme, quhairfoir the Refpett is gevin, and all done *rnico contextu*, at ane tyme ; and the lefs cryme the inftrument of the grit, quhilk is refpettit.

It is forder allegit, that this Refpett man comprehend the fchuitting with the hagbut, in refpect it is expreflie ftatute, be Act of Parliament maid in the dayis of King James the Fourt, Parlamento fexto, cap. 62, That in all Refpettis and Remiffiounes, mention fall be maid of the gritteft cryme, fa that be the exprefs meaning of the faid Act, the gritteft cryme being remittit and contenit in the Refpett, the lefs crymes man be lykwayis comprehendit thairintill ; speciallie, in thir crymes, quhilkis ar fa coherent and conioynet togidder, that the Refpett or Remiffioun comprehend the gritteft, of all neceffitie man comprehend the leift.—It is anfwerit be the Lord Advocat, that that Act of Parliament militatis only, quhair thair is Remiffioun or Refpet, tane only for ane perticuler cryme, and ane generall claufe of Remiffioun fubioynit thairto : bot in this caice, the Refpett producet contenis only the cryme of Slauchter allanerlie, without ony generall claufe of vther crymes fubioynit thairto : In refpect quhair of, the allege-

ance aucht to be repellit.—It is anſwerit, be the pannell, that the Reſpet nocht only comprehendis the ſlauchter, bot alſo all thingis that can follow thairupoun, quhilk is the ſchuiting.

It is forder allegit, be the pannell, that the cryme of ſchuiting and weiring of hagbuttis and piſtolettis was nevir *in viridi obſervantia*, and ſic a cryme quhairupoun ony accuſatioun or puneiſchment followit, befor the Act of Parliament, in anno I^m.V^c.lxxxxvij; fra the quhilk tyme and Act, that cryme hes only bene obſervet, and the pwneiſchment contenit in the ſaid Act hes only had place. And albeit, be Act of Parliament maid in anno I^m.V^c.lxvij, it is ſtatute and ordanit, that the weiring, vſing and ſchuiting of hagbutis and piſtolettis, ſhall be tynfall (*loſs*) of the rycht hand, yit be ane poſterior Act, maid in anno I^m.V^c.lxxxix, the pane of the ſchuiting and vſeing is only pecuniiall, contening the ſowme of x li. and tynfall of the hagbut or piſtoll: And ſa, haifing conſidderatioun that this fact is allegit to haif bene done in anno 1583, lang befor the yeir of God I^m.V^c.lxxxxvij, the panes of the ſaid Act can nawayis be extendit aganes thir defenderis. It is anſwerit be the Lord Aduocat, that the Act of Parliament, in anno I^m.V^c.lxxxix, maid lang befor the committing of the cryme lybellit, levis to the Kingis Maieſtie, his optioun of the inflicting of the corporall pwneiſchment for the ſaid cryme; quhairanent, his Maieſtie hes declairit his will, be the Warrant producet.

It is forder allegit be the pannell, that the Act of Parliament, maid in anno lxxxxvij, declairis the penaltie of the former Actis to haif place, with the additioun; ſa that befor the tyme, the Kingis Maieſtie nevir declairing his Will, his Maieſteis Will and penaltie man be only extendit fra the dait of the laſt Act.—The Aduocat anſweris, the maiſt ſolempne Declaratioun of his Maieſteis Will is be Act of Parliament.

THE Juſtice Repellis the allegiance, in reſpect of the Act of Parliament, Reſpett producet, and his Maieſteis Warrant; and Ordanes forder proces.

It is forder allegit, be the pannell, that the pannell, for weiring and vſeing of piſtolettis, can nawayis be put to the knowlege of ane Aſſyſe, becaus it is confeſſit in the Dittay, that the weiring and ſchuiting of the hagbut or piſtolettis was committit vpoun the landis of Reidbank, quhair the defenderis duelt and remanit for the tyme; and it is nawayis prohibeit be the Act of Parliament, bot be the contrair, it is permitted to perſones to beir, weir and ſchuit hagbuttis and piſtolettis, within thair awin houſſis, yairdis and cloiſſis: And trew it is, gif ony hagbut was ſchott, borne or worne, the ſamyn was within the houſe of the ſaidis landis, at the leiſt, hard be the yettis and durris thair of: And albeit ony perſone wald ſchuit and weir within his awin houſe, or at the yettis or within the cloiſſis

thairof, that is na cryme of the law. And now it man be respectit, that thair is na mair in our Dittay, bot only the beiring, weiring and schuiting, &c.; vnder protestatioun, that the pannell nawayis grantis the samyn.

ASSISA.

Johnne Lyndfay of Auchinskeach, Jo. Mertene, bailzie of Blaikschaw, Michell Anderfoun, burges of George Reidik of Airdrie, Adame Strudgeoun of Myllerland, Dumfreis, Johnne Turnour of Ardwell, Harbert Strudgeoun of Towcroce, Clement Edjer of Kirkblang, Williame Williamefoune, burges Johnne Richiefoune, burges of Harbert McKie in Prestoun, of Dumfreis, Dumfreis, Robert Edjer of Blaikschaw, Johnne Slowane¹ of Garroche, Johnne Gibfoun, burges thair. Robert Rediche of Barnehowrie.

OBJECTION to an *Affisor*.—It is allegit that *Williame Maxwell of Merfyde* can nocht pass of this Affyse, becaus he was nocht of perfyte age, viz. vpon the age of xiiij yeiris, the tyme of the committing of the fact lybellit.—It is answert, be the Aduocat, the allegiance aucht to be repellit, in respect of his present age.—The said Williame Maxwell being inquiryt be the Justice and fuorne, ‘Quhat age he was presentlie of?’ Declairit he was outwith xxv yeiris of age.—It is allegit be the pannell, that the said Williame Maxwell of Merfyde, the tyme of the committing of the fact lybellit, was nocht foure year auld.

THE JUSTICE Repellit *Williame Maxwell*, in respect of his awin confessioun, quha declairit that he was tement to Harbert Maxwell of Kavense.

The Aduocat takis instrumentis of the sweiring of the Affyse, and protestis for Wilful Errour gif thay acquit: As also of the sweiring of the Dittay be the perseweris; and that the defunct was flane be Williame Maxwell appeirand of Cowhill, be ane schott.

SPECIAL VERDICT of the *Affyse*.

THE saidis persones of Affyse, be the mouth of the said Johnne Lyndfay of Auchinskeach, chancellor, stand, pronuncet and declairit, all in (ane) voce, the said ARCHIBALD MAXWALL elder of Cowhill to be Clene, innocent and acquit of the beiring, weiring and schuiting of hagbuttis and pistolettis, committit vpon the saidis landis of Reidbank, in the moneth of Junij, the yeir of God I^m.V^c. fourfcoir thre yeiris: AND sicklyke, stand, pronuncet and declairit, all in ane voce, be the mouth of the said Chancellor, the said WILLIAME MAXWELL, appeirand of Cowhill, to be ffylet, culpabill and convict of the beiring, weiring and schuiting of ane hagbut; committit in the moneth of Junij, the yeir of God I^m. fyve hundreth fourfcoir thre yeiris, vpon the grund of the saidis landis of Reidbank, within ane speir-lenth to the hous thairrof, pertening than to the said Archibald Maxwell; the said Williame Maxwell than being within the age of fourtene yeiris. In witness quhairrof, the chancellor, for him self, and in name of the haill remanent persones of Affyse, hes subferyuit thir presentis with his hand.

(Sic subfribitur)

JHONE LYNDESAY.

Quhairvpon the saidis Archibald and William Maxwellis askit actis and instrumentis: and the said Charles Maxwell, in name of our said sonerane lordis Aduocat, Protestis for remeid of Law and Wilfull Errour aganis the said Affyse.

¹ ‘Allowane’ in another place. ‘A’ was then a common prefix to many names in the south of Scotland, as Amulligan, Acannan, Alasone, Abannay, &c.

[*Per Comitem de Ergyle, Justiciarium Generalem; et Magistrum Wilclmum Hairt, ejus Deputatum.*]

**Fire-raising — Burning the Place of Littlegill — Slaughter —
'Rapt' — Adultery — Theft, &c.**

Aug. 9.—THOMAS JARDANE of Birnok, Vmphra and Alexander Jardanes, his fones.

Dilaitit of airt and pairt of the treffonabill Raifing of fyre, burning and distroying of the Place of Littillgill, with the haill laiche houffis, barnes and byres thairrof, and haill inficht and pleniffing being thairin; and for the crewall Burning and slaying of vmq^{le} Alexander Bailzie of Littilgill, Rachael Bailzie, dochter to Mathow Bailzie, now of Littillgill, and vmq^{le} Achiesone, fervand to the said Mathow; the saidis vmq^{le} thre perfones being all within the said place the tyme of the burning and distroying thairrof; committit in the moneth of . . . the yeir of God, I^mV^c fourfcoir nyne yeiris. AND ficylk, for airt and pairt of the Slauchter of vmq^{le} Robert Broun in Culter; committit in the moneth of Junij, the yeir of God I^mV^clxxxvj yeiris: AND ficylk, for airt and pairt of the Rapt and Raviesching of Katharene Johnnestoune, spous to . . . Airme-strang of Arkiltoune; committit in anno I^mV^clxxxvj yeiris: AND for the cryme of Adulterie, committit be him with hir, contrair the tennour of the Actis of Parliament,¹ &c. &c.

Williame Creichtoun of Darnehauche and Johnne Carmichell younger of Potieschaw, as cautioners for the appearance of the pannels, vulawit in the pane of tua hundreth merkis for ilk ane of thame. The Jardaues ordained to be denounced Rebels, and their moveables to be escheit, &c.

[*Mr Williame Borthuik, Justice-Depute.*]

Bestiality.

Sep. 17.—JOHNNE JAK, alias SCOTT, fervand to Thomas Boirthuik, in Roifling.

Dilaitit of the abhominabill and monstrouous fact of Sodomie,² &c.

SENTENCE. 'To be tane to the Castell hill of Edinburghe, and thair, he to be first bund to ane staik and wirreit thairat; and thaireftir, with the said meir to be brunt in asches, as he that, vpon his awin Confessioun, was convict of the crymes abone writtin; and his haill moveabill guidis to be escheit to his Maiesteis vse,' &c.

¹ There are also numerous acts of theft of horses, cattle, sheep, &c. enumerated, but unnecessary to be noticed here. ² A case of a similarly disgusting description (the *only* instance in the early part of the Record) was purposely omitted, Sep. 1, 1570. The crime (Sodomy) is designated 'wyild, filthie, execrabil, detestabil and unnaturall.'—'Johnne Swan and Johnne Littler, smythis and feruandis to Robert Hannay,' the pannell, were likewise burnt on the Castle-hill of Edinburgh.

Slaughter.

Nov. 5.—WILLIAME JARDANE in Yle, Johnne Carsane in Erfik, Fergus Heroune at the Kirk of Glastrune, Johnne Aslowane in Tyllochbloun, Nicoll Dungalfoun in Claymadie, Robert M^cBay in the Maynes of Qulithorne, James M^cconene in Caringdone, and Harie Stewart in Lagane.

Dilaitit of airt and pairt of the Slauchter of vniq^{le} Harbert Maxwell, callit *Harbert of the Coittis*; committit in September I^mV^elxxxxvij yeiris.—Johnne Dunbar of Mynnieweik become plege and fouertie, that thai fall compeir befor the Justice, the xvij day of December nixtocum.

(Dec. 17.)—Johnne Dunbar vnlawit in the pane of ane hundreth merkis, for ilk ane of the faidis perfonas: The Justice ordanit that thay be denunceit rebellis, &c., and all thair moveabill guidis to be escheit.

[*Mr Williame Hairt, Justice-Depute.*]

Slaughter.

Nov. 6.—HARBART MAXWALL of Kavenfe.

Dilaitit of airt and pairt of the Slauchter of vniq^{le} Sir Robert Maxwell of Dynwiddie, knycht.

PERSEWARIS, Archibald Maxwell of Cowhill,¹ Williame Maxwell, appeirand of Kowhill, Archibald Maxwell, his brother, Sir Thomas Hammiltoun of Monkland, knycht.

The Guidman of Kavenfe takis instrumentis of this entrie, and protestis for releif of his cautioner.

The Justice continewis the matter to the Air of Dumfreis, or soner, vpone xv dayis wairning. Johnne Broune, of the Land, cautioner.—Archibald Myller, bailzie-depute to my Lord of Moirtoune, of the Regalitie of Moirtoune, Protestis, that the Guidman of Kavenfe finding of Cautioune, preiudge nocht the previledge of my Lord of Moirtoune's Regalitie; quhilk the Justice admittit.

Mutilation and Demeubration.

Nov. 23.—ROBERT M^cDOWELL and JOHNNE M^cDOWELL, fones to Peter M^cdowell of Machirmoir.

Dilaitit of airt and pairt of the Mutilatioune of Patrick Murdoche of Camloddene and Alexander M^ckie, his fervand, of thair richt handis.

PERSEWER, Patrik Murdoche of Camloddene, Alexander M^ckie, his fervand, Sir Thomas Hammiltoun (knycht), Aduocat to our fouerane lord.

PRELOCUTOURIS for the pannel, Mr Alexander King, Peter M^cdowell of Machirmoir, The Laird of Mondurk, Robert Dougall, merchand.

Peter M^cdowell of Machirmoir become pledge and fouertie for Robert and

¹ See Aug. 6, 1605.

Johnne M^dowellis, his fones, that thay fall compeir befor the Justice or his deputis, the thrid day of the nixt Justice-air of the Sherefdom of Kirkcud-brycht, or foner, vpone xv dayis wairning, to vnderly the Law,¹ &c.

[*Mr Williame Borthuik, Justice-Depute.*]

Slaughter.

Dec. 6.—DAVID MARSCHELL, messinger.

Dilaitit of airt and pairt of the Slauchter of vmq^{le} Richard Spens.²

Continued to the Justice-air of 'Air, tertio Itineris (vel super premonitione), xv dierum. Plegio, Roberto Stewart de Pitheveles.'

[*Mr Williame Hairt, Justice-Depute.*]

Murder — Shooting of Hagbutts and Pistolets.

Dec. 11.—JOHNNE JOHNNSTOUNE of Auchrynnie; James, Johnne and Patrik Forbes in Mylnebowie.

Dilaitit, accuset and perfewit off the crymes following, viz.

PERSEWER, Alexander Irwing, as fader.

PRELOCUTOURIS (for the pannell), Mr Laurence M^cgill, The Laird of Corfindae.

FORSAMEKILL as thai, with thair complices, with convocatioun of our fouerane lordis leigis, to the number of ten perfones or thairby, all bodin in feir of weir, with jakis, fecreitis, fleil-bonnetis, plait-flevis, speiris, lauce-flaltfis, fuordis, quhingeris, gantilletis, hagbuttis, dagis and pistolettis, expresse prohibeit to be borne, worne, vsed or schot with, be dyuerse our fouerane lordis Actis of Parliament and Secreit Counfall, vnder dyuerse panes, mentionat thairintill; haifing confauet ane deidlie feid, rancour and malice, caufeles, aganis vmq^{le} Robert Irwing in Baddis, laillie, in the moneth of Februar last-bypast, come to the toun and landis of the Kirktoun of Skene, quhair the said vmq^{le} Robert was for the tyme, accompaneit with certane freindis and nichtbouris in the cuntrey, at ane bankett, making mirrie, lipning for na harme, iniurie or perfute of ony perfones, bot to haif leuit vnder Godis peax and our fouerane lordis; thair, about ten houris at evin, vnder silence and clud of nycht, enterit within the said hous of the Kirktoun of Skene, quhair the said vmq^{le} Robert was, as said is, and schot and dilaschet thair hagbuttis and pistolettis at him, quhairwith thai schot him throw the body; and thaireftir, with thair fuordis, hurt and woundit him in dyuerse pairtis of his body. Off the quhilkis schotis and crewall straikis, the said vmq^{le} Robert depairtit this lyfe; and sa, was maist crewallie flane and murtherit, vnder nycht, be the saidis perfones; and thai, and ilk ane of thame, ar airt and pairt of the samyn Slauchter and Murthour, committit vpoun fet purpois, prouisiounne and foirthocht felony; in hie and manifest contempt of our fouerane Lord, his hienes auctoritie and lawis.

VERDICT. The Assyse, be the mouth of Robert Watfoune in Auchincloche, ffand, pronuncet and declairit, all in ane voce, the saidis Johnne, &c. to be Clene, Innocent and Acquit of airt and pairt of the Slauchter of the said vmq^{le} Robert Irwing; and haill remanent poyntis of the said Dittay.

¹ 'James Gordoune, burges of Kirkcubrycht (and 26 others) amerciati in payne of ane hundreth merkis,' each, for not appearing to pass upon the Assise of the M^dowells. ² See Jul. 25, 1605.

Jamesucken — Slaughter.

Dec. 11.—Mr ROBERT IRWING of Moncoffer, David Gray in the Lyn, Alexander Maynie in Adiestounne, and Andro Many in Auchquhartene.

Dilaitit of the crymes vnderwritten, viz.

PERSEWARIS, Johnne Forbes of Mylnebowie, as father; Patrik Forbes, James Forbes, brether; Sir Thomas Hammiltounne of Monkland, Aduocat.

PRELOQUUTOURIS for the pannell, the Erle of Home, the Maister of Marschell, the Maister of Moirtounne, Mr Johnne Ruffell, Mr Robert Lyntonne.

FORSAMEKILL as thai, with thair complices, with convocationne, &c. laitle, vpone the tent day of Februar lastbypast, haifing confaet ane deidlie feid, rancour and malice aganis Johnne Forbes younger in Mylnebowie, be thame selfis and thair complices, of thair speciall causing, sending, hounding out, ressetting with the bluidie hand, airt, pairt-taking, command, assittance and ratilabitionne, come be way of Hame-sukkin to James Hallis duelling hous at the Kirk of Skene, qubair the said vmq^{le} Johnne Forbes was for the tyme, doand his liefull effaires and bussines, traisting na evill, &c.; and thair violentlie brak vp the durris of the said hous, enterit within the samyn, set vpone the said vmq^{le} Johnne, and maist crewallie and vnmerciefullie slew the said vmq^{le} Johnne, be geving of him of dyuerse bluidie woundis, in the wambe; and thai and ilk ane of thame ar airt and pairt, &c.

The perfeweris passis *simpliciter* fra the perfute of Mr Robert Irwing, for the crymes contenit in the Letteris.—The persones accuset denyis the haill Dittay, and haill circumstances thair of; alsweill of the Slauchter as of the beiring of pistolettis. Mr Johnne Ruffell, prelocontour for the pannell, declairis, that David Gray and Andro Many war absent fra the Slauchter; and David Gray, the tyme of the committing thair of, was sleipand in his bed, and knew nathing of the doing thair of, quhill¹ it was done.

VERDICT. The Assyse, be the mouth of the said chancillar, all in ane voce, stand the saidis David, &c. to be Clene, Innocent and Acquit, &c.

[APUD LYNLYTHGOW, *Mr Williame Hairt of Levelandis, Justice-Depute.*]
Treason—Declining the Jurisdiction of the Secret Council—Holding a General Assembly of the Kirk, after being charged, &c.

Jan. 10, 1606.—Mr JOHNNE FORBES, Minister at the Kirk of Airfurd, (Moderator,) Mr JOHNNE WELSCHÉ, Minister at Air, Mr ROBERT DURIE, Minister at Anstruther, Mr ANDRO DUNCANE, Minister at Carrail, Mr ALEXANDER STRAUCHANE, Minister at Creiche, Mr JOHNNE SCHERPE, Minister at Kilmany.²

Dilaitit, accuset and perfewit be Sir Thomas Hammiltoun of Monkland, kny^t,

¹ Until. ² As the circumstances are so very fully detailed in the course of the following proceedings, it seems to the Editor only to be necessary to refer the enquiring reader to *Wodrow's Church History*, pp. 506—516; *Hailes' Memorials and Letters*, James I. pp. 1—4; *Cook's History of the Church of Scotland*, II. 160, &c. An elaborate account of this remarkable struggle is also given, by the learned *Dr M-Crie*, in his interesting *Life of Andrew Melville*, Vol. II. p. 201, &c.

Advocat to our fouerane Lord, for his hienes entreis, off the crymes of Treffone specifit in the DITTAY following, viz.

FORSAMEKILL as, be the first Act of our fouerane lordis Parliament, haldin at Edinburgh in the moneth of Majj, 1^m. Vc. fourfoir four yeiris, it is statute and ordanit, that our Souerane Lord, his airis and successoris, be thame felffis and thair Counfallis, ar, and in tyme cuming falbe, Judges competent to all perones his hienes subiectis, off quhatfumeuir estait, degre, functionn or conditionne that euir thay be, of spirituall or temporall, in all matteris quhairin thay or ony of thame falbe apprehendit, summond or charget, to answeir to sic thingis as falbe inquyret of thame, be our said Souerane Lord and his Counfall; and that nane of thame, quhilk fall happin to be apprehendit, callit or summond, to the effect foirsaid, presume ar tak vpone hand to declyne the Judgment of his hienes, his airis and successoris, and thair Counfall, in the premiffis; vnder the pane of Treffone: NOCHTWITHSTANDING it is of verritie, that the saidis Mr JOINNE FORBES, &c. being charget be our fouerane lordis Letteris, raisit at the instance of his Maiesteis Advocat, for his hienes entreis, to compeir befoir his Maiestie and the Lordis of Secreit Counfall, vpone the xxiiij day of October lastbypast, to haif ansuerit for thair vnlauchfull and contemptuous conuening, proceeding and halding of ane pretendit Generall Assëmblie,¹ at Aberdene, the secund day of July lastbypast; and appointing of ane new Generall Assëmblie, to be haldin at Aberdene, the last Tyfday of September thairefter; without the consent, and estir the expres refuseall of the Laird of Lowriestoun,² his Maiesteis Commissioner, being than present in Aberdene; and in contempt of the charges of Hoirning, lauchfullie execute vpone the first day of the said moneth of July lastbypast, at the said mereait croce of the burgh of Aberdene, discharginge, in our fouerane lordis name, all conuening and halding of ony sic Assëmblie, at that tyme and place, vnder the pane of rebelloun; and aganis the will and command of the Lordis of his hienes Secreit Counfall, signifieit to the saidis Ministeris be the Counfallis Letter than delyuerit to thame be the said Laird of Lowriestoun, befoir thair said proceeding, beiring, that becaus thair Lordschipis vnderstuid that the halding of ane Assëmblie, thair, at that tyme, wald heichlie offend his Maiestie, and be estimat be his hienes ane heich contempt, thairfoir it was thair Lordschipis will and plesour, that the saidis Ministeris shold noch hald ane Assëmblie, at that tyme, nor mak ony indictionne of ane new Assëmblie, but suffer the samyn to desert. As lykwayis, the said Mr JOHNNE WELSCH, Minister at Air, being charget to haif comperit befoir the Loirdis of his hienes Secreit Counfall, the said xxiiij day of October lastbypast, to haif ansuerit for his vnlawfull resoirting to the said burgh of Aberdene, vpone the fourt, fyft and saxt dayis *respectiue*, of the said moneth of July lastbypast; and vnderstanding, as it was maist nottour and manifest to all men thair, how vndentifullie and contemptuoullie the saidis Ministeris procedit, in the halding of thair said vnlauchfull pretendit Generall Assëmblie, to the contempt of his Maiesteis autoritie, and of the directionne of the Lordis of his hienes Secreit Counfall, in maner aboue specifit; neuertheles, the said Mr Johnne Welsche, without all ordour, forme, necessitie or preceeding exampill, conueinit vnlawfullie with ane number of his complices, within the Kirk of the said burcht of Aberdene, the time foirsaid, and Ratifeit and approvet the proceedingis of thair said bretherene foirsaid, in halding of thair said vnlauchfull Assëmblie, and making indictionn of ane new Assëmblie, as said is, and taik instrumentis thairuponne. And in respect of the premiffis, all the foirsaidis Ministeris, being charget as said is, to compeir befoir the Lordis of his hienes Secreit Counfall, to haif hard and sene it flundin and declairit, that thai had verrie contemptuoullie conuenit thame felffis, and procedit in thair saidis actiones, the tyme foirsaid; and thairfoir, the said Assëmblie, and approbatioun thairof, declairit vnlauchfull, and sua to be repute and haldin in tyme cuming; and thay to be puneischt in thair perones and

¹ Of the Church of Scotland. ² Sir Alexander Straiton of Laurenstoun, knight, one of the Commissioners for the Union of England and Scotland, July 11, 1604. A Letter of Gift and Pension, for all the dayes of his lyfetyne, of the blenche-deutie of the Lordship of Scone, extending to 1000 merks, was Ratified by Parliament, July 11, 1606. Vid. *Acta Parl.* Straiton was appointed to represent the King, in Ecclesiastical Judicatories.

guidis, for thair vnlauchfull conuening, halding and approveing of the foirfaid Affemblie, in maner aboue writtin : AND the foirfaidis Ministeris, all compeirand befor the faidis Lordis of Secreit Counfall, the faid xxiiij day of October lastbypast, to ansuer in the faid cause, the samyn being ane actionn maist competent and propper to the Jurisdiction of the Lordis of Secreit Counfall, because the samyn concernit the tryell and punisfchment of ane heich offence, contempt of his Maiesteis authoritie, and disobedience of his Maiestie and Lordis of his hienes Secreit Counfall : Neuertheles, the foirfaidis Ministeris, and ilk ane of thame, treffonabillie declynit the judgement of his Maiestie and Lordis of his hienes Secreit Counfall *simpliciter*, be thair Declinatour, subscryuit be everie ane of thair handis, and gevin in be thame, in Judgement, befor the faid Lordis ; to the quhilk, it being replyit be the faid Aduocat, that the samyn sould be Repellit, in respect of the faid Act of Parliament, declairing all sic Declinatouris to be null, and the proponeris thair of to incur the pane of Treffone : And, in respect of the quhilk ansuer and reply, your faid Declinatour was repellit be the faidis Lordis of Secreit Counfall, all in ane voce : The faidis Ministeris, neuertheles, persistit sa obstinatlie thairin, that eftir the samyn was repellit be the faidis Lordis, as faid is, quhairby thai could nocht pretend ony probable dout or ignorance of thair Jurisdiction, the faidis Ministeris gaif in thairestir, thair remanent Defenssis, in writt, vnder protestatioun alwayis, that thai adheirit to thair faid Declinatour : Be proponeing quhair of, as also be adheiring to the same Declinatour, eftir that it was Repellit, thay, and euerie ane of thame, hes committit Treffone, and sould incur the panes thair of.

PERSEWER, Sir Thomas Hammiltoun, Aduocat to our fouerane lord.

PRELOCUTOURIS for the pannell, Mr Thomas Gray, Mr Thomas Hoip.

THE LORDIS OF SECREIT COUNSALL, vnderwritten, declairis thay will assist the Justice, as ASSESSOURIS in this cause.

ASSESSORS.

Johnne Erle of Montroise,	James Lord of Balmyrrienoch, Mr Johnne Prestoun of Pennycuik,
Alexander Erle of Dumfermling, Lord Fyvie, Chancellor,	Secretar to his Maiestie, and Collectour to his Maiestie,
Johnne Erle of Mar,	President of his hienes College Sir Richard Cokburne of Clerking-
Alexander Erle of Lynlythgow,	of Justice, town, Lord Previe Seill,
George Erle of Dumbar,	Mark Lord Neubottill, Johnne Lord Murray of Tyllie-
Patrik Lord Glamis,	Walter Priour of Blantyre, bairne,
Alexander Lord Elphinstoune,	Johnne Commendatour of Halyrudhous, Sir Robert Meluill of Mourdocar-
James Lord Abercorne,	Sir James Douglas of Quhitting-hame, ny, kny ^t , Alex ^r Maister of Elphinstoune,
David Lord Scone, Comptroller to his Maiestie,	 Levinstoun of Kilsythe.

It is allegit be the pannell, that thai aucht to haif bene charget vpon xl dayis wairning, seing thay ar to be accuset for crymes of Treffone.—The Aduocat answeris, that it is daylie practik, in bringing the persones put in waird to pannell, to put thame summerlie to ane Tryell ; and speciallie, the practik of the Laird of Bonytoun, quha was tane and put in waird for the breking of his fatheris housse and cofferis, and steilling and away-taking of his fatheris euidentis, &c., was brocht fra the waird to the bar, and put to ane Assyse.

THE Justice Repellis the allegiance, and findis forder proces :—Quhairupone the Aduocat askit instrumentis.

It is forder allegit be Mr Thomas Hoip, prelocutour for the pannell, that this

matter can nocht pass to ane Assyse, vpon the declinatour gevin in be thame aganis the summondis persewit contrair thame, befor the Lordis of Secreit Counfall, in sa far as thay ar persewit vpon the first Act of Parliament, haldin in May 1584 yeiris; becaus the meaning and intentione of the said law is only to establishe the Kingis Maiesteis royall power and Jurisdictione ouer all persones; quhilk the pannell, in all humilitie and submissioun, confessis: And albeit the said law appeiris to be generall, and vniuersallie to comprehend all matteris, yit the samyn can nocht be vniuersallie vnderstuid; becaus, quhairfoenir a law speikis generallie, gif vpon the generall speiking, ony absurditie or incommodie may follow, quhilk may tak away former lawis, or confound distinct and diuerse¹ jurisdictiones, establischet be lawis of befor, the samyn, in that caise, man be restrictit to thais matteris that may fall vnder the compts of the law; quhilk speciallie aucht to haif place, quhair the matter is odious: But sa it is, gif this law war vniuersallie vnderstuid, of all matteris, it shold follow, that the Jurisdictiones of the Secreit Counfall, the Lordis of Sessione, and Justice Generall, quhilkis ar supreme, Jurisdictiones Ciuill shold be commfoundit, insafar as the woirdis of this law being attendit, na persone being conuenit befor the Lordis of Secreit Counfall for ane cryme quhilk is competent to the Justice, or for ane ciuill debt, quhilk is competent to the Sessione, nicht nocht, nor could nocht, without the perrell of the Law, allege² that the Lordis of Secreit Counfall ar nocht Judges competent in Criminall or Ciuill caussis: Bot this is sic ane inconuenient, and sa improppter for the caise, mynd and intentione of the law, that thair is na persone will mak questioun thairin: And as this war competent in the distinct Jurisdictione of the Lordis of Secreit Counfall, Session, and Justice, sua the samyn is alsé competent in Jurisdictione Ecclesiasticall, quhilk is an fenerall and distinct Jurisdictione be the self, haifing the Warrant and grund of the word of God, and being autorizet be his Maiesteis lawis; speciallie, be ane Act of Parliament maid in anno I^m.V^c.lxxix, ane vther in the lxxxj and lxxxij yeiris; sua that the pannell, being than conuenit befor the Lordis of Secreit Counfall, in ane matter quhilk was altogidder Ecclesiasticall, pertening to the Jurisdiction of the Kirk, quhair of the cheif poynt consistit vpon the lawfulness or vnlawfulness of the Assemblie haldin be thame, thay nicht lauchfullie, without the perrell of this law, haif gevin in thar Declinatour, declyneing the saidis Lordis of Secreit Counfall, as nawayis Judges competent of the vnlawfulness or lawfulness of the Assemblie; and in doing thair of, thay could nawayis, nor can nawayis be decernit to haif committit aganis the said law; seing the said law, possibillie, can nocht be extendit bot to sic caissés quhilk hes nocht ane speciall, ane seperat, or distinct Jurisdiction, be the self;

¹ Separate. ² Plead. This verb is almost universally made use of throughout these Records, and indeed in nearly the whole of the Forensic proceedings of that period, chiefly in that sense.

and quhair, it may appeir, that the pannell, in the Summandis befor the Secreit Counfall, war nocht famekill ceitit vpon the vnlawfulness or lawfulness of the Assemblie.—As for the contemptuous convening being dischargit be his Maiesteis Letteris, aganis the requiest of the Lordis of Secreit Counfall, and the Commissioner of the Kirk, quhilk matter mycht properlie appeir to pertene vnto the Jurisdictione of the Lordis of Secreit Counfall, and that thairby the Declinatour man fall vnder the compas of this law; it is answerit, that it fould nocht be considerit, quhat was the middis¹ quhairupone thay war convenit befor the Secreit Counfall; bot the conclusioun of the Summondis man be attendit, seing it is the conclusioun and nocht the premisses that maks the nature of the action, quhairvpon ane cause and grund ²; and vpon ane fact thair may concur of the law twa actiones or ma,³ quhilk ar dinoset⁴ be their conclusiones; as in an actione of spuilzie, persewit ciuillie, the cognitioun thair of will pertene to the Lordis of Counfall, the lybell being sa formet, that it concludit the restitutione of the guidis spuilzeit; and vpon that same fact, the spuilgear may be convenit befor the Lordis of Secreit Counfall, for Oppressioun, the Summondis concluding to heir and sie ordour tane with him for committing of the said fact; sa that albeit the fact be ane, yit tua diuerse conclusiones produces tua feuerall actiones, the cognitioun quhair of pertenis to tua feuerall Jurisdictiones. And as this is trew, in all vther matteris Prophane, sa it is alyk trew, into the cause intentit and persewit aganis the pannell befor the Lordis of Secreit Counfall, quhairin it aucht nocht to be respectit, quhat was the deid quhairupone thay war summond, bot it aucht to be considerit quhat the summondis concludit: Sa that albeit the allegit fact or deid committit be thame mycht be puneschet be the Secreit Counfall, and sa pertene to thair Jurisdictione; yit, seing the conclusioun beiris nocht allanerlie for the said fact, quhilk gif it had bene sa confaet, the pannell could nevir nor would nevir haif declynit, lyk as, *in facto*, thay haif nocht declynit the samyn; bot concludis to heir and sie the Assemblie haldin be thame vnlawfull: Quhilk conclusioun makis the matter to be altogidder Ecclesiasticall, only subiect to the Jurisdictione of the Kirk establischet be his Maiestie and be the lawis of this cuntrie; the actione being comptit of that nature, quhair of the conclusioun is, of all dentie and conscience thay aucht and mycht haif declynet the samyn, without the perrell of the said law; and thairfor, &c. *Secundlie*, It is allegit, that the Act of Parliament can nocht be extendit to the Declinatour vsit and proponit be the pannell; becaus in all Lawis, the intentione and reffone of the Law aucht to be attendit; bot sa it is, that the intentione and reffone of this Law was only maid, in sic matteris, quhair ony persone was summond *super inquirendis*, as appeiris be the verrie expres wordis of the Law, saying, in all matteris quhairin sall be apprehendit, &c. sua that the

¹ Medium, means.² Illegible.³ More.⁴ Lat. *dignoscere*, distinguished, judged of.

law being only confauet vpon ane fingular¹ caice, it can na wayis be extendit to any vther caiffis or matteris, quhilk ar nocht expreffit in the Law; and confequentlie, can nocht be extendit to the actionne perfewit aganis the pannell befor the Lordis of Secreit Counfall, becaus thai war nocht perfewit *super inquirendis*, bot vpon ane perticular fact and lybell; and the reffone of this Law, quhairfoir it fould nocht militat *super inquirendis*, becaus gif ony perfone, being fummond *super inquirendis*, wald declyne the Lordis of Secreit Counfall, the fact nocht being knawin to him, it war ane manifest contemptuous Declinatour of his Maieftis fouerane authoritie, and ane exeilling of his perfoun fra his Maieftis maift royall power, quhilk war maift worthie of the pane of Treffone; fua that this reffone, nocht being militat in the caufe of the perfute perfewit aganis the pannell befor the Secreit Counfall, the faidis perfones, in vring of thair Declinatour, hes nawayis fallin vnder the compas of the faid Law. And forder, the faid Law can nocht be perticuierlie extendit aboue the perticuler caife mentionet thairin till *quia odiosa sunt restringenda*; and that, be the consent of all Doctouris, is countit odious, quhilk is aganis the difpofitionne of the Cowmoun Law, or quhilk may preiudge a thrid perfones lauchfull rycht; quhilk is the nature of this Law; feing by it the punefment of Treffone is imponet² vpon ane fact, quhilk nather be the Cowmoun Law, nor be the Lawis of this cuntrey is treffonabill. *Thridlie*, the pannell can nawayis be accufet for committing of Treffone, be proponing of the Declinatour, becaus, be the Law, the proponeing of the Declinatour is nocht comptit ane treffonabill deid, bot only prohibeit to do the ame, vnder the pane of Treffone; fa that the Affyfe, without committing manifest Errour, can nocht convict thame of the faid fact, as Treffone. *Finallic*, the pannell can nawayis pas to the knowlege of ane Affyfe, for the Declinatour, be vertew of this Act of Parliament, becaus, fen the making thair of, viz. in the moneth of . . . , anno 1592, all lawis, actis, statutes and ordinances, quhilk may derogat to the Jurisdiction of the Kirk ar abrogat and annullit; lyk as, be the fame Law, it is declairit be his Maieftie and the thrie Eftaitis, that the foirfaid Act of Parliament quhairupon the pannell is accufet, being the 129 Act of the Parliament haldin in Maij 1584, fall nawayis be preiudiciall, nor derogat any thing to the privilege that God hes gevin to the spirituall office-beiraris in the Kirk, concerning heidis of Religioun, matteris of errofie,³ excommunicationne, collatioun and deprivationne of Ministeris, and vtheris ficyke essentiall cenfours ecclesiasticall, expreflie groundit and haifing warrand of the woird of God; be the quhilk Law, the Kingis Maieftie and the Eftaitis hes declairit, that the faid Act of Parliament quhairupone the pannell is accufet, fall nawayis be preiudiciall to any Ecclesiasticall essentiall cenfours, foundit vponne the woird of God, being of that nature quhair of the particuleris preceding thairin contenit ar: Bot trew it is, that

¹ Special, individual.² Imposed.³ Heresy.

the Generall Affembly is an essentiall Ecclesiasticall cenfure, expreflie warrandit be the woird of God, and be that fame Act in the fourfcoir tuelf,¹ Ratiefeit and approvin be his Maieftie, and decernit to be lauchful and Godlie in the felf, and is of the lyk natour with the particuleris contenit in the faid Act; becaus the intreiting of the heidis of Religioune, matteris of errafie,² excommunicatioune, collatioune and deprinatioune of Ministeris, ar proper pairtis of the General Affembly, and of the office and Jurifdictioun of the fame, *et ejufdem eft nature cum fuis partibus*: And thairfoir, the pannell, in the proponeing of the faid Declinatour, haifing done nathing bot that quhilk pertenit properlie to the Jurifdictiounne of the Kirk, in defyreing the queftiounne anent the faid Generall Affembly to be remittit to the Kirk, thay did na wrang in proponeing of the faid Declinatour, nor yit can the faid Declinatour be drawin in queftioun, be vertew of the faid Act, quhilk be the foirfaid posteriouir Act, in that poynt, is *tacite* abrogat be ane expref declaratiounne, that the famyn fall nawayis be extendit to the essentiall cenfours of the Kirk; fua that the pannell was *in optima fide*, in refpect of the faid posteriouir Declaratioun, to vfe the benifeit of the famyn; and thairfoir, &c.

Thaireftir, the pannell for cleiring to his Maieftie of thair intentionne in vfeing of the faid Declinatour, hes declairit, and be thir presentis declairis, that thair nawayis thairby meanit to exeme³ thame felfis fra ony lauchfull fubiectioun to his Maieftie's royall authoritie, nor yit frome the Jurifdictioun of the Lordis of Secreit Counfall, in ony thing quhairin ony vther fubieft is fubieft to thair authoritie; bot only, to haif that caufe, tuiching the lauchfulnes or vnlawfulnes of the faid Generall Affembly, being ane mater meir fpirituall, to be judget be his Maieftie and the Kirk, as only Judges competent thairto, accoirding to the law of God, and eftableifchet Actis of Parliament within this realme; declairing be thir presentis, that his Maieftie fould judge Ecclesiasticall matteris with Ecclesiasticall perfones, lyk as he judges Ciuill matteris with Ciuill perfones; and acknowlegeing thame felfis, in all matteris Ciuill or Criminall, to be fubieft to his Maieftie (and) all the lauchfull Jurifdictiounes eftableifchet for sic caiffis within this land; vnto the quhilkis, in all humble reuerance, thay fubmit thame felfis; lyk as, in all Ecclesiasticall matteris, thair ar reddie to be judget be his Maieftie with the Generall Affembly, and vtheris eftableifchet ordouris of the Ecclesiasticall Jurifdicties.

IT IS ANSWERIT to the *ffirft* allegiance, that the Actis of the Parliament lxxix and lxxxj can mak na derogatiounne to the Act of Parliament maid in Maij, anno 1584, quhairupoun the Dittay is foundit, being posteriouir to thame, geveing expref Jurifdictiounne to the Kingis Maieftie and Lordis of his lienes Secreit Counfall over all perfones, ather fpirituall or temporall, accoirding to the tennour of the faid Act: And as to the nature of the caus perfewit aganis the pannell

¹ A.D. 1592.² Heresy.³ Exempt, free.

befoir the Loirdis of Secreit Counfall, accoirding to the tennour of the Dittay and Decreit of Secreit Counfall product, the Lordis of Secreit Counfall was maist competent Judges to the haill contentis thair of, alsweill anent the tryell and punisshment of thair contempt, as of the vnlawfulnes of thair Assemblie, at that tyme and place, thay being expresse dischargit be his Maiesteis Letteris of Hoirning and be the Counfallis command, in writt, to hald na Assemblie at that tyme, or indiet ane new Assemblie to ane new tyme and place: Lyk as, thay haifing proponit thair Declinatour befor the saidis Lordis, the samyn was Repellit, and Decreit gevin in the haill cause; in respect quhair of, the Dittay standis relevant.—To the *secund* allegiance, answeris, that the woirdis of the Act of Parliament, anent Declinatouris to be proponit in actiones *super inquirendis*, befor the Secreit Counfall, can nocht exeme the cause contravertit, fra thair Jurisdictione; albeit that fauour was schawin to the pairtie, to foirwairne thame of the cause thai war to answer: Bot generallie, the Law is vnderstand, and hes alwayis bene interpret, that all Declinatouris proponit in matteris competent to the Jurisdiction of the Counfall ar of thame selffis tressonabill, as was solempnatlie decydet in the Kingis Maiesteis awin prefence aganis vni^q^{le} Mr David Blak: And thairfoir the Declinatour proponit be the pannell, and adheirit to be thame, eftir the samyn was repellit be the Counfall, fallis vnder the woirdis, meaning and tennour of the Act of Parliament.—To the *thryd* allegiance, answeris, that all crymes ordanit to be pwnest be the payne of Treasoun ar tressonabill.—To the *ffourt* allegiance, answeris, that the claus of the Act of Parliament, in the yeir of God I^m.V^c.lxxxij, being ane exceptioun frome the Act of Parliament, in the yeir of God 1583, confermis the samyn Act, in all heidis nocht expresse exceptit; lyk as, the exceptioun is only of heidis of Religioun, materis of errasie, excommunication, collatioun or deprivation of Ministeris, or siclyke essentiall censouris, speciallie groundit and haifing warrand of the word of God; and it is of veritie, that the keiping of ane Assemblie at ane certane tyme and place, and appointing of ane new Assemblie, aganis the Kingis Maiestie expres charge vnder the payne of rebelloun, and aganis the will and command of the Counsale, and aganis the disassenting of his Maiesteis Commisshoner, is nather ane heid of Religioun, mater of errasie, excommunication or essentiall censour; and thairfore, is nocht exceptit fra the said Act, bot fallis vnder the prohibition and danger thair of: And thairfore, nochtwithstanding of the alledgance and declaration foirsaid, the Dittay shuld be putt to the knowlege of ane Assyse.

It is lykwyise alleget be the Pannell, that the Justice can nocht putt thame to the knowlege of ane Assyse, for Treasoun, becaus thay stand at the horne vnrelaxit.—The Aduocat answeris, that the Justice hes admittit the preloquutouris to compeir in the said mater; and thairfoir the Dittay for Treasoun shuld be putt to ane Assyse.

THE JUSTICE admittit the said preloquuntouris to compeir as preloquuntouris in the said mater : And with auise of the haill Affessouris, in aue voce, in respect of the answieris maid be my Lord Aduocat, Ordanis the Dittay to be putt to ane Affyse.—Quhairuponne my Lord Aduocat askit instrumentis.

ASSISA.

Sir Johnue Home of North-Ber-	Sir Archibald Sterling of Keir, knyt,	Gawin Home of Johnnefclench,
nik, knycht,	Johne Levingstoune of Donypace,	Thomas Levingstoune of Pantoun,
Sir George Home of Broxmouthe,	James Schaw of Sanchie,	Ro' Levingstoune of West-Quarter,
knycht, elder,	Mark Swyntoun in Inperkething,	James Gib younger of Carriber,
Sir James Forrester of Carden,	Harie Stewart of Craigiehall,	Alexander Home of Rentoune,
knycht,	George Home of Deanes,	Sir Patrik Home of Polwort, knyt.

The Aduocat askis instrumentis of the admitting and sueiring of the Affyse, and eftir accusatioun of the personis on pannell, be Dittay.—The Aduocat, for verification of the Dittay, producit the Declinatour, subscriuit with thair handis acknowlegeit be thame selff in Judgement ; Repetit the Act of Parliament ; producit the Decreit of Secreit Counfall, the charge of Hoirning, and the pretendit proces,¹ subscriuit be the pretendit Moderatour and the pretendit Clark of the Generall Assemblie, granting the resait of the Counfallis Missiue, of the tennour lybellit, and the Declaratioun of his Maiesteis Commiissioner, bering that he disassentit fra thair haill proceeding ; and seing my Lord Justice, be the auise of the haill Counsaile present, hes discussit the pannellis haill defensilis, and ffund the Dittay relevant ; and that thair reslis na forder to the Affyse bot to declair, quhiddir the factis contenit in the Dittay haif bene committit be the pannell or nocht, the samin fact being sa manifestlie provin be the writtis producit, and navyise denyit be the pannell, bot ratifeit and renewit in Judgement, as the proces beris ; in caise thay acquit the pannell, the Aduocat protestis for Wilfull Errour and remeid of Law, with all regour.—The pannell protestis for Errour aganis the Affyse, in caice thay ffyle thame of Treasoune.—The Aduocat askis instrumentis, that the pannell confessis to gefing in of the Declaratour.

VERDICT. The Affise, be the mouth of the said Harie Stewart of Craigiehall, chancellor, ffund, pronuncet and declairit the saidis fax Ministeris, and ilk ane of thame, to be ffylet, culpable and convict of the tressonabill declynceing of the Judgement of his Maiestie and Lordis of his Secreit Counfall, conforme to the Dittay aboue specifreit.

WARRANT and DOME of BANISCHEMENT² pronuncet aganis THE MINISTERIS, in Pretorio de Lynlythgow, xxiij die mensis Octobris, 1606, per Magistrum Willielmum Hairt de Prestoune, Jusficiarium Deputatum.

[Oct. 23.]—COMPEIRIT M^{ris} Thomas Henderfoun and Robert Lyntoune,

¹ The procedure which took place at their Assembly.
to insert the ' DOME' here, rather than under its proper date.

² It has been thought most convenient

substitutis to our sowerane lordis Aduocattis, and producet to my Lord Justice his Maiesteis Warrant; quhilk the Justice causit be oppinlie red in Judgement, and ordanit the samyn to be insert in the buikis of Adiornall; quhairof the tenuour followis.

JAMES R.

WHEARAS, in our Justice-Court, held at Lynlythgow, the tenth of Januare lastbypast, Mr Johnne Forbes, &c. war convicted of the cryme of Tressone, for pair contemptuous and tressonable declyneing pe Judgement of us and pe lordis of our Secreit Counfall, *simpliciter*, be a declinatour subferyuit with pair handis, and gevin in be pame, in Judgement, befor the saidis Lordis of our Counfall; as in the said proces of Convictione at mair lenth is contenit: And pe pronunceatioun of the Dome being by our Justice, vpon grave and wechtie respectis continewit, till our farder plesour war knawin pairin, WE now considering pe grit insolence of that proud contempt, and quhat dangerus exampill it micht be, if it fould pas vnpwneisched, haveing, in our accustomed lanity, gevin to thair declared Traturis moir pan sufficient tyme to haif implored and maid humble sute for our mercie; 3it, finding in thame nathing bot a continwing obdured obstinacie and wilfulnes, without likeliheid or appeirance of resipiscence and repentance in thame, for pair former committed soleis: And albeit pe gritnes of pair offence, and speciallie in men of that functioun (quhais lyves fould be lanternes and lichtis to vperis, to cary thame felvis in all dentie and obedience, and pairfoir pair ouersightis requyreing pe moir seveir animaduersion and pwneischment,) hath most iustlie demereited the extremitie of the regour to be inflicted vpon thame, for ane exampill to affray all vperis to attempt pe lyk; 3itt, becaus heirtofoir that Law haith nevir bene putt to executioun, quhairby sum men may perhaps pretend that pai had pe moir probabill ignorance pairof, (albeit in reasone the same can be no excuse,) We haif with our wounted clemency, vpon that respect only, spared to inflict the rigour of the Law, at pis tyme: It being our Will and pleafour, that our Justice or his depute fould fence and affix a Justice Court, to be held at Lynlythgow, or ony vper pairt else that our Counfall fall think expedient, the xxij day of October nixtocum, and pair cause Dome to be gevin out against the saidis traytouris, to be BANISHED all our dominiones, during all pe dayis of pair naturall lyves; vnder pane of daeth: And pe Dome being pronounced, oure Will and plesour is, that pai be returned to pair wairdis, thair to remane for pe space of ane moneth, for making pair preparationes for pair depairtour; befor pe expyreing quhairof, gif pai do nocht depairt, wind and wedder surveing, oure Will and pleafour is, that pe ordinarie death vsuallie inflicted vpon Traytouris be directed to be execute vpon thame: And gif pai fall nocht depairte within pe said space, or being depairtit, fall returne into oure dominiones, without our Licensse, thay fall incur pe pane of death, and all vper panes dew to persones convict of Tressone. Quhairanent these presentis fall be to our said Justice a sufficient Warrant. AND becaus this our spare dealing and grit clemencie, extendit towardis those abone named offendouris, in this thair so haynous a cryme and offence, may perhappes move in sum vtheris sum presumptioun to think, that for trespassis of this qualitie no gritter rigour will be heireftir vsed: ffor removing of which pair foolische opinione and conceate, and that everie ane may haif notice of our full determinatioun in any suche lyk case heireftir, Oure Will and pleafour is, that in our said Justice Court, to be keipit pe said day, for pronouncing of pe said Dome, speciall intimatioun be maid, in open Court, by our said Justice, to all our leigis pair present, that it is our resolutioun, that gif any heirefter fall offend, in such a heich trespas, that pai fall be proceedit against with all severitie; and that the death dew vnto Traytouris fall be inflicted vpon thame with all rigour; the example of this our present lenitie at pis tyme, nevir remayning any motiue to induce us to schaw any such clemencie to such as fall commit pe lyk offence heireftir: And our will is, that pir presentis be recoirdit in the buikis of Adiornall, and that publicatioun be maid heirof at the mercait croce of Edinburghe, and all vper places neidfull. GEVIN at our Court of Hampletoun Court, the xxvj day of September, 1606.

Accoirding to the quhilk Warrant, the said Justice-depute, be the mouth of Henrie Wilfoume, dempfter of Court, pronuncet dome, and decernit and ordanit the saidis perfones to be Banifchet all our fouerane lordis dominiones, during all the dayis of thair naturall lyves : And ordanis thame to returne to thair wairdis, thairin to remane for the fpace of ane monethe, for making of thair preparatioun for thair depairtour ; befor the expyreing quhairof, gif thay depairt nocht, wynd and wedder ferving, the said Justice-depute, accoirding to the said Warrant, decernis and ordanis the ordinarie daeth vsuallie inflictit vpon perfones convict of Treffone to be execute vpon thame : And gif they fall nocht depairt within the said fpace, or being depairtit, fall returne within his hienes dominiones without his Maiefteis Licence, decernis and ordanis thame, accoirding to the said Warrant, to incur the pane of daeth, and all vther panes vsuallie inflictit vpon perfones convict of Treffone : Quhilk was pronuncet for dome.

[*Mr Williame Hairt of Prestounne, Justice-Depute.*]

Murder of the Warden of the West Marches.

[THE Clan or 'Name' of ARMSTRONG was perhaps the most distinguished of the warlike Thieves of the Scottish Border, having possession of the largest portion of Liddisdale and the Debateable Land. For the exploits of many individuals of this name, reference may be had to the Works of Sir Walter Scott, and especially to the Introduction to the Border Minstrelsy, and the Notices prefixed to '*Johnie Armstrang*' and '*Kinmont Willie*,' &c. The almost unparalleled act of bravery of the LAIRD OF BUCCLEUCH, who achieved the deliverance of *Kinmont Will* from the Castle of Carlisle, in April 1596, has been adverted to in a former part of this Collection.¹ A very interesting 'Relation' of this remarkable feat, taken from a contemporary MS., is also given in the Minstrelsy,² which the reader will find well worthy of perusal. This event is likewise narrated in the Anonymous History of Scotland, already quoted ;³ and as his Narrative is very brief, it has been thought proper to preserve a transcript here.—'Now Auld WILL ARMISTRANG of *Kenmont* being tane be Inglis men, and is wairdit in the Castell of Cairleill, within ane strait priffoune, and yrnifs on him ; and being to thoill the tryall of the Law, knew perfytlie that thair was no saifty for him. He vrittis in Scotland to his freindis, to sic gif thay culd mak him releiff. Quhairupoun THE LAIRD OF BALCLEUCH past within⁴ thrie scoin tenne horfe to the saidis Castell, and with ladderis clam the fame, and brak the priffoune ; and bringand the said Williame Kinmwnt hame with him, he cauffit blaw his trumpett and cry sum flughorns,⁵ puttis the toune and cuntry in sic ane fray, that nene durst stirr : Quhairby, he brocht the said Will Kinmont away, but⁶ ane straik, to the grit honour of his cuntry. This wes done the sext day of Apryll, 1596.'

The Murder of SIR JOHN CARMICHAEL, knight, the Warden of the West Marches, sealed the fate of many of the Armstrongs, and led to the adoption of measures of the utmost severity against all those of the name who were thereafter convicted, or even suspected, of mal-practices.⁷ On Nov. 14, 1601, Thomas Armstrang, 'sone to Sandeis Ringane,' was convicted for being accessory to this barbarous act of butchery, and is the first instance on record, in Scotland, of a criminal having been hung in chains. The above mentioned Anonymous Historian⁸ narrates the event very quaintly, in the following terms. 'Now the Bordouris being werry euill brokin, thair war dyuerse Reidis⁹ in all fydis, bayth be Scotland

¹ Vol. I. pp. 363—365.
Library, A. 4. 35.
pp. 450, 451, and 452.

² See *Scott's Poetical Works*, Svo. 1821, Vol. I. p. 180.

⁴ Under the number of.

⁵ Slogans, war cries.

⁶ Without.

⁸ MS. Advocates' Library.

⁷ See Vol. II.

⁹ For Raids, hostile incursions.

and England; and THE ERLL OF ANGUS, heaffand gewin the famin owir, quha wes Wardane, the King makis THE LAIRD OFF CARMICHAEL Wardane; quha, finding the *Airmistrayngis* to be the grittest occasioun of the trubillis, wes myndfull to pvneife sum of thame, quha wes notorius theiffis; and thay heaffing intelligense thairroff, fendis to him ane broder of *auld Williame Airmistrayngis of Kenmunt*, quha wes callit Alexander Airmistrayng, *alias Sandeis Ringand*. This Ringane being in his cumpany, and entiring in conferance with the Wardanis, findis that thair wes na frendship to be luikit for at his handis; and also, thair wes sum young menne with the Wardane, quha begane to mok this *Ringane*, be steilling out of his fuord, and putting 30kis of egis in the skabert, quhairby the famin wald not draw; quhilk he persaiffing, said, that “he awowit to God, that thai suld sie his fuord outt, and (if) he and thay vent on the grond quhair he mycht be partie!”¹ And cuming hame to his awin hous, in this readge, sayis to his fonnis, that he wes “maid schame of som,” awowing to God, “to be equall with the famin!” And knawing THE WARDANE to ryd on the morne, he and his sonis settis for him with sum wtheris, and flayis him be the schott of ane hagbutt. And thaireftir, for the famin cans, this *Ringane* and his sonis wer tane and executt to deith, as Tratonris to his Maiesty, be putting handis in the Kingis Wardane. This was done the 16 day of Junij, yeiris 1600.’

Sir Walter Scott supposes the well-known verses, ‘*Armstrong’s Good Night*,’ to have been composed by Thomas Armstrong, who is called by him ‘*Ringan’s Tam*,’ previous to his execution, Nov. 14, 1601. The reader is referred to the *Minstrelsy* for the exploits of the Armstrongs, and of other Worthies of the Scottish Border, whose names frequently occur in the Criminal Records.]

Feb. 13.—ALEXANDER AIRMESTRANG, callit *Sandie of Rowaneburne*.

Dilatit and accuset be Johnne Commendater of Halyruidhous, sone-in-law to vinq^{le} Sir Johnne Carmichell of that Ilk, knycht.

FORSAMEKILL as he, accumpaneit with Thom Airmstrang, sone to *Sandeis Ringane*,² the said Ringane and vtheris, his sonis and complices, to the number of fewintene perfonis, or thairby, commounne thewis and tratouris, the maist pairt being on horsbak, and he on fute; came all bodin in feir of weir, with hagbuttis and pistolettis, lance-stalfis and vtheris wappinnis, invasue, to the Murthunleis; quhair thai, in the moneth of Junij, 1^m.Vj^c., altogidder confukit and dewysit the crewall and treasonabill Slauchter of the said vinq^{le} SIR JOHNNE CARMICHELL of that Ilk, knycht, WARDEN OF THE WEST MARCHES;³ and for performance thairrof, past fra Murthunleis to Coloneheid, quhair he and his complices lay att wait for the said vinq^{le} Sir Johnne passing by to ane Court; and as he wes, in fobir and quyet maner, passand by to the said Court, vpon the . . . day of the said moneth of Junij, quhilk wes to be hauldin in Lochmahene, he and his complices fett vponne him att the Raeknowis, quhair, with schottis of hagbuttis and pistolettis, thay schot him throw the body, and crewallie slew and mordreift the said vinq^{le} Sir Johnne Carmichell, being his Maiesteis Wardene for the tyme: And the said Alexander Airmstrang wes airt and pairt of the said

¹ Where he might avenge his own quarrel.

² See Vol. II. p. 363, where he was sentenced to be ‘hangit vp in *irne-chainis*,’ after having his right hand struck off.

³ Robert Birrel gives the following notice, in his Diary, Jul. 11, 1600. ‘The Laird of Carmichael bareit; quha was flaine be the Airmstrangis and Carliles, he doing and executing his office of Wardaurie, vpon the 16 of Junij befor.’

crewall and treffonabill Murthour, he being than vpoun the ground with his complices, att the committing of the said vngodlie fact : To the takin¹ he confest the famin be his depositiounis ; lyke as, he, be Deposition, declarit him selff to be innocent of ony vther haynous crymes, except the foirsaid innocent² Slauchter of the said vmq^{le} Sir Johnne ; quhilk he declairit he wes brocht vpoun aganis his will. ITEM, for commoun Thift, commoun Ressett of thift, inputting and out-putting of thift, fra land to land, fra countrey to countrey, baith of auld and new.

PERSEWER, My Lord (‘ Johnne Commendater’ of) Halyrudhous.

ASSISA.

Robert Mcbrair of Almagill,	Andro Ker of Mylnerig,	Michell Adamefoun, flescheour in
Johnne Weir, brother to Auchtie-	Gylbert Halyday, merchand bur-	Edinburghe,
fardell,	ges of Edinburghe,	Williame Mow, hatt-maker thair,
R ^t Johnnestounne, burges of Edr,	Allane Cathcart, staibler thair,	Andro Greir, burges thair,
Vthrid McDonell of Mondurk,	Robert Dalzell, Yr of that Ilk,	Alexander Bowie, staibler thair,
. . . Hunter of Polmude,	James Johnnestounne or Waffraw,	J ^{on} Steill, fumtyme of Houstounne.

VERDICT. The Assyse, be the mouth of the said James Johnnestounne, chancellor, fand, pronounceit and declarit the said Alexander Armstrang to be ffylit, culpabill and convict of airt and pairt of the crewall Slauchter and Murthour of the said vmq^{le} Sir Johne Carmichell, conforme to his Depositionis. And als, to be ffylit, culpabill and convict of commoun thift, commoun ressett of thift.

SENTENCE. To be tane to the mercat croce of Edinburghe, and thair to be hangit vpoun ane gybet quhill he wes deid ; and all his movabill guidis to be escheit and inbrocht to our souerane lordis vse, for the said crymis.

Slaughter — Shooting Hagbuts, &c.

Feb. 21.—ADAME BROUNFEILD, in Gordone maynes.

Dilaitit for airt and pairt of the fellone and crewall Slauchter of vmq^{le} Thomas Cranstoun ; committit vpone the xxij day of July, the yeir of God I^m.V^c. fourfcoir fyftene yeiris, within the boundis of the landis of Moriestoun, at that pairt thairof callit the Kame, be the schot of ane hagbut throw his body ; vpone set purpois, prouisioun and foirthocht felony.

PERSEWER, Johnne Cranstounne, as brother.

PRELOCOUTOURIS in persute, Sir Johnne Cranstounne of that Ilk, Mr Thomas Cranstounne.

PRELOCOUTOURIS for the pannel, Mr Williame Oliphant, Aduocat, James Brounfeild of Nether Maynes.

It is allegit be the pannel, that he can nocht be put to the knowlege of ane Assyse, vpone this Dittay, and crymes contenit thairin ; becaus the Kingis Maiestie hes grantit his Remissionne, vnder the Grit Seill.³—It is ansuerit be the persewer, that this Remissionne, anent the tyme of the committing of the said (slauchter) lybellit, meittis nocht the tyme specifeit in the Dittay.⁴

¹ In token or testimony whereof. ² *Sic.* ³ Apud Edin. Dec. 20, 1605. ⁴ ‘ In menfe . . . 1594, commiss.’

THE Justice admittis the Remiffiounne producet.

It is allegit be the perfewer, that the Remiffioun vset be the pannell, is contrair to the Act of Parliament, ordanang na Remiffiounne to be grantit, without fatisfactiounne of pairtie, and productiounne of ane Letter of Slanes, vtherwayis to be null.—Anfuerit, the alledgeance aucht to be repellit, in respect of the Remiffiounne; and offeris cautiounne to fatisfie the pairtie, conforme to the Lawis of this realme.—James Brounfeild in Nether-maynes, Johne Brounfeild in Gordone-maines and the said Adame (become) cautiounne, coniunctlie and feuerallie, for fatisfactiounne of pairtie, &c.

Slaughter — Shooting Hagbuts and Pistolets.

Feb. 25.—HEW CAMPBELL in Manchline, sone to vinq^{le} Thomas Com-mendator of Halywoid.

Dilaitit of airt and pairt of the fellone and crewall Slauchter of vinq^{le} Johne Glencorfe of that Ilk, be schottis of hagbutis and pistolettis; committit vpone the xiv day of September, the yeir of God 1581 yeiris, vpone the ground and landis of Gribtounne; vpone set purpois, proniffioun and foirthocht fellonie.

PERSEWERIS, Iffobell Glencorfe, sifter; Robert Glencorfe, neir kynfman.

PRELOCUTOURIS for the pannell, Mr Robert Lyntoun.

Tuik him to our fouerane lordis Remiffiounne, for the said cryme. ('Apud Edinburgh, Feb. 14, 1606.') Williame Campbell in Grienoek-maynes, Alexander Nisbet of Greneholme, and the said Hew, become cautiounne and fouertie, coniunctlie and feuerallie, to fatisfie the pairtie, as law will.

Slaughter.

Feb. 26.—WILLIAME M^cINTOSCHE, sone to the Laird of M^cIntosche; Angus Williamfoune of Termet; Donald M^cintosche, sone to Perfone M^ccondowie; Williame M^cJames, sone to James Glas; Angus M^cRannald, sone to vinq^{le} Johne M^cAngus; Lauchlane Williamfoune, eldest sone to Angus.

Dilaitit of airt and pairt of the slauchter of vinq^{le} Alexander Anderfoune in Balnaglak and vinq^{le} Johne Barrone thair.

PERSEWER, Johne Elphinstoune of Balnaglak, as neir kynfman to the saidis vinq^{le} perfones.

The said Johne Elphinstoune, persewar, for himself, and takand the burding on him for Thomas Anderfoun, brother to vinq^{le} Alexander Anderfoune, past fra the persute of the perfones on pannell, *pro loco et tempore*. Lauchlane M^cintosche of Dynnachten becomes fouertie for the entrie of the perfones on pannell, the thrid day of the air (of 'Inuernefe,') or soner, vpone xv dayis wairuing; vnder the panes contenit in the Actis of Parliament.

Breaking the Place of Kilbirnie — Thett, &c.

Feb. 26.—JOHNNE CRAUFURD, sumtyme in Auchincloch, now in Auchinbothie.

Dilaitit of airt and pairt of the Breking of the Place of Kilbirnie; and steilling of certane evidentis and abulzimentis, pertening to Johnne Craufurd of Kilbirnie, &c. viz.

FORSAMEKILL as he, accompaneit with Thomas Wilfoun in Wallafe, with divers vtheris thair complices, cownoun thewis, in the moneth of Nouember, the yeir of God 1^m.V^c. and twa yeiris, come to the Place of Kilbirnie, the Laird being than furth of this realme, and his Lady being than in Grenok, ten myle distant fra the said place of Kilbirny; and thair, vnder sylence and cloud of nycht, brak the said Place, at the North syde thair of, enterit within the samin, and thiftioullie stall, concealit, ressett and away-tuik, furth thair of, and furth of the cofferis thau standing within the said Place, ane figuret velvet gowne, ane blew bend of taffetie, ane ryding cloik and skirt of broun cullerit claithe, wrocht with siluer pafment; ane blak velvet dowblet, cuttit out and wrocht with silk cordounis; ane pair of broun veluet breikis, wrocht with cordounis of gold; ane lowfe gown of grograne, ane skirt of broune fatene, ane broun saittene dowblet, twa hwidis with craipis; togidder with ane pair of blankettis, qubairin he band all the saidis clathis and abulzements: Quhilkis guidis and geir pertenet to the said Johnne Craufurd of Kilbirnie and his spous. LYKE as, att the samyn tyme, he with his complices, brak vp the said Johnne Craufurd's Charter-kist, standing within the said Place, and thiftioullie stall, concealit, ressett and away-tuik, furth thair of, ane grit number of the said Laird of Kilbirneis speciall evidentis and writtis,¹ togidder with the saidis guidis and geir and abulzements, he and his complices had and convoyit away with thame, and disponit thairvpoun att thair pleasour; and he wes airt and pairt of the thifteous steilling, concealing, ressettting and away-taking of the saidis guidis, geir, writtis, evidentis and vtheris aboue writtin, and of the breking of the said Place, in maner, and att the tyme foirsaid; quhilk wes notourlie knawin. To the takin,² he, with his wyffe and seruand-wemene, delyuerit bak agane to the Lady Kilbirny, within the duelling houle of Cuthbert Craufurd in Parkfut, in presens of the said Cuthbert Craufurd, Hew Gawin in Boig, Williame Allane in Manis, Thomas Harvie in Broklirhill, Mungo Allane in Sarlie, Hew Starrie in Bankfyde, and George Kelfo in Brighill, the perticuler abulzementis following, viz. the saidis cuttit out velvet dowblet, the broun velvet breikis, the lowfe grograne gowne, the broun fatene skirt, ane broune fatene dowblet, the said figurit velvet gowne, the said broun ryding cloik and skirt, with the saidis twa huidis, quhilkis wer thifteoullie stollin and away-brocht be him and his complices, furth of the said place, att the tyme foirsaid: To the takin also, he being examinat him self, in presens of the Minister, eldaris and deakinnis of the Kirk of Kilbirnie, he grantit and confessit the haifing of the said blew taffatie bend, with certane of the said Laird and Ladies writtis and evidentis, bot wald nocht declair how he came be thame; as the Extract of his Confessioun, heirwith producit to schaw, beris: To the takin lykwayis, the said Johnne, being chargit of befoir to find cautionne to haif comperit before the Justice, at ane certane day bygane, to vnderly the law for the foirsaidis crymes, he than, for dissobedience of the said charge, past to the horne; as the Hoirning lykwayis schawin beiris.

PERSEWARIS, Johnne Craufurd of Kilbirnie, Sir Thomas Hammiltoun of Monkland, kny^t, Aduocat. PRELOCUTORIS for the pannell, Mr Johnne Russell, Williame Speir, wryter, Mr Patrik Hammiltoun.

The Laird of Kilbirnie takis instrumentis of the productionne of Thomas Wilfoun at the horne, and lykwayis of the productionne of the Letteris aganis

¹ Principal title-deeds and writings.

² In token, or proof.

the cautioneris for the Entrie of Johnne Craufurd, and of the roll of his Affise; and offeris him reddie to persew the said Johnne for the crymes contenit in his Dittay; and protestis, in respect thair of, that he be relevit of his cautionerie.

VERDICT. The Affise, be the mouth of Williame Orr in Lochrig, chancellor, for the maist pairt, stand, pronuncet and declairit the said Johnne Craufurd to be Clene, innocent and acquit of airt and pairt of the breking, &c.

Slaughter — Demembration.

Mar. 7.—NINIANE AIRMESTRANG, callit *Niniane of Tueidane*, Andro Henderfoune, servand to the Laird of Mangertoune, Archibald Airmestrang, callit *Fair Archie*.

Dilaitit of the Slauchter of vmq^{le} Andro Smyth, and demembring of Thomas Tueidie of his neife (*nose*.)

PERSEWERIS, Johnne Smyth, sone to vmq^{le} Andro Smyth, Thomas Tueidie in Dwisfyre.

The perseweris passis fra the persones in pannel, *pro loco et tempore*.—Robert Scott of Hayning become souertie for the entrie of Niniane and Andro, and Sir James Johnnestoune of that Ilk, for the said Archibald, the thrid day of the air (of Dumfries) or soner, vpone xv dayis wairning, to vnderly the Law, &c.

Mutilation and Demembration.

Mar. 7.—GAWIN ELLOTE of Fiddeltoune, callit *Johnne's Gawin*.

Dilaitit for Dismembring of Thomas Twiedie in Dunfyre of his nise (*nose*.)

Robert Ellote younger of Fallinesche oftymes callit, as cautioner for the said Gawin, to haif enterit and presentit him befor the Justice this day, vnder the pane of thre thousand merkis; as he that become souertie actit in presens of Sir Williame Seatoun of Kyleshure, Sir Johnne Charteris of Amisfeld, and Sir Jedione Murray of Elibank, kny^{tis}, his Maiesteis Commiissioneris, in ane Court of Justiciarie held be thame, within the tolbutth of Peiblis, the tuentie tua day of December lastbypast. The said Robert vnlawit in the said pane.

Cattle and Horse Stealing — Slaughter — Fire-raising — Shooting of Pistolets — Cutting down Timber, &c.

Mar. 19.—HECTOUR TRUMBILL of Wauchope, George Trumbill his sone, Adame Trumbill in Bullerwall, ('*past fra*,') George Trumbill in Howa, ('*past fra*,') Johnne Trumbill, sone to Hectour of Wauchope, Hectour Trumbill of Stanyledge, ('*past fra*,') Andro Trumbill, brother to Bullerwall, ('*past fra*,') Hectour Trumbill in Clarielaw, and Thomas Trumbill of Hoppisburne.

Dilaitit, accuset and persewit for airt and pairt of the crymes *respectiue* following, viz.

FOR the thiftious Steilling, conceilling, ressetting and away-taking, fra Margaret Trumbill Lady Apotefyde, furth of the toun and landis of Hairwood, tua hundreth ky and oxin, threttie fcoir of scheip, threttie horse and meiris, with the haill insicht and pleniffing, worth the fowme of ane thousand pundis money; committit in the moneth of Junij, the yeir of God I^m.V^c. fourfcoir auchtene yeiris (1598). ITEM, for airt and pairt of the thiftious fleilling, conceilling, ressetting and away-taking furth of the landis of Apotfyde, of ane hundreth ky and oxin, tua hundreth scheip pertening to the said Margaret, with hir haill insycht and pleniffing being within the said place, worth V^c lib.; committit in Junij, the yeir of God foirfaid. ITEM, for airt and pairt of the thiftious steilling, conceilling and away-taking, be way of Maisterfull thift and flouth-reif, furth of the saidis landis of Apotefyde, of xxx ky and oxin, pertening to the said Margaret Trumbill, with hir haill insicht pleniffing, worth the fowme of V^c merkis; committit in Januar, the yeir of God I^m.V^c. fourfcoir nyntene yeiris. ITEM, for airt and pairt of the tressonabill and awfull Raifing of ffyre about the place of Apotfyde, and burning and distroying of dyuerse housis within the said place, togidder with tua horsis, price of the peice¹ V^c pnnnd; with certane insight and pleniffing; committit in the moneth of Maij, I^m.V^c. fourfcoir nyntene yeiris: And for airt and pairt of the crewall Slauchter of vmq^{le} Williame Lorane,² ane young boy of xij yeiris of age; committit in the moneth of Julij, the yeir of God I^m.Vj^c. yeiris, within the wood of Lorane, vpone set purpois, prouifoun, auld feid and foirthocht felony. ITEM, for airt and pairt of the crewall Slauchter of vmq^{le} Hectour Lorane of Harwoid, with schotis of hagbutis and pistolettis; committit in the moneth of Junij, the yeir of God I^m.Vj^c. and foure yeiris. ITEM, for airt and pairt of the Slauchter of vmq^{le} Lyell Broun, fervand to the said Margaret: AND als, for airt and pairt of Steilling fra the said vmq^{le} Lyell, furth of his landis of Harwoid, of threttie ky and oxin, threfcoir scheip, thre horse and twa meiris, with the haill insicht and pleniffing of his hous, worth the fowme of thre hundreth merkis; committit in the moneth of Junij, the yeir of God, I^m.V^c fourfcoir auchtene yeiris. ITEM, for contravening of the Actis of Parliament, in beiring, weiring and schuiting of hagbutis and pistolettis, vpone the saidis landis of Harwoid, Apotefyde and remanent places foirfaidis, schuitting and slaying of the saidis Hectour Lorane of Harwoid, and vmq^{le} Williame Lorane, his brother, the tymes *respectiue* aboue writtin of the committing of thair said Slauchteris. ITEM, for contravening the Actis of Parliament, in cutting down and distroying, in the monethis of Januare, Februare, Marche, and remanent monethis of the yeiris of God I^m.V^c. fourfcoir auchtene, 1599, 1600, 1601, 1602, 1603, 1604 and 1605, at the leist in ane ar vther of the said monethis and yeiris of God, of the haill grit growand trayis,³ within the woidis of Apotefyde, pertening to the said Margaret Trumbill, viz. ane thousand Eirk treyis, fyve hundreth grit aikis, thre hundreth allouris, four hundreth haifailis;⁴ and hes waifit and destroyit the saidis woidis.

PERSEWERIS.

Margaret Trumbill, Lady Apotfyde; Mr Robert Lyntoun, Aduocat, substitute to my Lord Aduocat.

PRELOCUTORIS for the pannell, Mr Alexander King, Mr Lawrence McGill.

Compeirit personallie WILLIAME ERLE OF ANGUS, Lord of the Regalitie of Jedburghe-florrest, and producet his Seasing, comprehending the said Regalitie, and desyrit to Repledge the particular persones following, duelling within the said Regalitie, viz. The Laird of Wauchope, George and Johnne Trumbillis, his sones, and Thomas Trumbill of Hoppisburne, as household man to Thomas Trum-

¹ Price of each, £500.

² Brother to the Laird of Harwood.

³ Large growing timber.

⁴ 1000 birch trees, 500 great oaks, 300 allers (elder, or mountain ash), 400 hazels.

bill younger of Wauchope, all duelland within the said Regalitie. It is anſuerit be the Aduocat, that the perſones deſyrit to be repleget can nocht be repledget for Treſſone, viz. ſyre-raiſing,¹ contenit in the Dittay.—It is anſuerit be Mr Alexander King, that thai aucht to be repledget, nochtwithſtanding of the Ad-uocatis allegiance; becaus (thair is) na Treſſone, bot that quhilk is committit aganis the kingis awin perſone.—It is duplyt be the Aduocat, that ſyre-raiſing is Treſſone; and thairfore the ſaid perſones can nocht be repledget, bot ſould paſs to ane Aſſyſe, quhither it be committit aganis his Maieſteis perſone, or for ony vther cryme impoirting Treſſone.

THE Juſtice, eftir probatioune led that the ſaidis perſones duelt within the Regalitie, Admittis my Lord of Angus Replegeatioun, repledeand thame for the haill crymes contenit in the Letteris, except the Treſſone of ſyre-raiſing: And my Lord of Angus, preſent, fand cautioune, viz. Adame Trumbill in Bullerwall, to adminiſter Juſtice, in Lyntelleis, the xv day of Apryle nixt; and the ſaid Adame become cautioune for the entrie of the ſaidis perſones.²

The perſewer paſſis fra Hectour Trumbill of Clarielaw, for the cutting and diſtroying of the greine-woid, contenit in the Dittay, *pro loco et tempore*.

Treasonable Fire-raising — Cattle-stealing — Slaughter, &c.

Mar. 19.—HECTOR TRUMBILL of Wauchope, George Trumbill and Johnne Trumbill his ſones, Hectour Trumbill of Clarielaw, and Thomas Trumbill of Hoppiſburne.

Dilaitit, accuſet and perſewit of the crymes *reſpective* following, viz.

THE ſaid *Hectour Trumbill of Wauchope* and *Hectour Trumbill of Clarielaw*, of airt and pairt of the treſſonabill and awfull Raiſing of ſyre, vpon the landis of Harwod, and burning and diſtroying of fourtie dargis of turves,³ pertening to the ſaid Margaret Trumbill Lady Apoteſyde; committit in the moneth of Junij, the yeir of God, I^m.Vc.lxxxxviiij yeiris. ITEM, the ſaidis *Hectour Trumbill, elder of Wauchope*, *George* and *Johnne Trumbillis* his ſones, *Hectour Trumbill of Clarielaw*, and *Thomas Trumbill of Hoppiſburne*, for airt and pairt of the treſſonabill Raiſing of ſyre about the Place of Apoteſyde, and burning of findrie houſis of the ſaid Place, togidder with tua horſis, worth ane thouſand pundis, and haill infycht and pleniffing within the ſaidis houſis, worthe ane hundreth pundis; committit in the moneth of Maij, the yeir of God I^m.Vc. fourſcoir-nyntene yeiris. ITEM, the ſaid *Hectour Trumbill of Clarielaw*, for airt and pairt of the Steilling of tua hundreth ky and oxin, threttie ſcoir of ſcheip, threttie horſe and meiris, pertening to the ſaid Margaret Trumbill Lady Apoteſyde; with the haill inficht and pleniffing of hir houſis, worth the ſowme of ane thouſand pundis; committit in the moneth of Junij, the yeir of God I^m.Vc. fourſcoir auchtene yeiris: AND of the haill remanent crymes of Thift, Slauchteris, Cutting doune of grene growand treyis and vtheris contenit in the Act of adjudicatioun of Thomas Trumbill, of the dait of thir preſentis.⁴

¹ Being one of the pleas of the Crown.

² This, evidently, is one of the instances which the Editor has before referred to of the evil effects resulting from the Heritable Jurisdictions possessed by the Barons of Scotland, before the Act, abolishing such powers, was passed. The purpose of the 'Replegiation' was undoubtedly to quash all proceedings, and suppress the administration of justice.

³ Darg usually signifies a *day's-work*. This may, therefore, signify a quantity of peats or turfs, equivalent to the labour of forty days' work, in casting, &c.

⁴ See the first Dittay.

VERDICT. The Assyse, be the mouth of William Ryddell in Woidhous, chancellor, all in ane voce, fand, pronuncet and declairit the saidis Hectour Trumbill of Wauchope, &c. to be Cleane, innocent and acquit of airt and pairt of the crymes perticularlie aboue speceifeit.

Theft — Slaughter — Fire-raising, &c.

Mar. 19.—THOMAS TRUMBILL, younger of Wauchope.

Dilaittit of airt and pairt of the thiftious Steilling, conceilling, ressetting and away-taking fra Margaret Trumbill Lady Apotefyde, &c.¹

THE Justice decernit and ordanit James Gledstanes, appeirand of Coklaw (as cautioner for his entry), to be vnlawit and amerciati in the panes contenit in the Actis of Parliament, viz. ffor nocht entrie of the said Thomas, to the effect foir-said, in the pane of Fyve hundreth merkis money: And siclyke, Decernit and ordanit the said Thomas Trumbill, younger of Wauchope, for his non-compeirance, to be denuncet our souerane lordis rebell and put to his hienes horne, and all his moveabill guidis to be escheit and inbrocht to his Maiesteis vse, &c.

Slaughter.

Mar. 20.—LAURENCE LORD OLIPHANT.

Dilaittit of airt and pairt of the Slauchter of vmq^{le} Gilbert Gray in North Bannirane; committit in the moneth of September last.

PERSEWERIS.

Helene Rattray, the relict, Mr Thomas Henderfoun, Aduocat-substitute to his Maiesteis Aduocat.

PRELOCUTORIS for the pannell, Mr William Oliphant, Mr Alexander King.

My Lord Aduocat takis instrumentis of the productionne and reding of his Maiesteis Letter, direct to the Counfall; quhair of the temmour followis.

JAMES R.

RIGHT trustie and weilbelouit conseignis and counfallouris, We greit 3ow hairtie weil. Quhairas it is heavilie complened vnto us, be Patrik Gray, of the crewall Slauchter of vmq^{le} Gilbert Gray his faper, by certane persones speciallie houndit out be pe Lord Oliphant, and sum of pame being his domestik feruitouris; qulich offence doith so muche pe moir greve us, that now, quhair as in the lait Bordouris and in pe verrie Hielandis of pat our realme, pair is such vniuersall obedience, that nocht-peles in pe verrie hairt of pat cuntrey, and so neir to pe ordiner place of residence of our Justice pair, such ane vyld fact sould be committed, without pwneishment inflicted vpon the doaris pairof; and pat to delude our Justice, any of our nobilitie pair, absenting him self from pe actionn, sould hound out vperis to execute his privat revenge, and be his craftie conveyance of pe malefactoris out of pe way, sould tak away all menis of pe tryell of his awin giltines in that cryme; qulich doing, inferring so dangerus ane preparatiue² as that nane of our subiectis, gif pis be nocht prevented, can be in suretie of his life. We ar pairfoir to recommend to 3our speciall care and dilligence, as 3e respect our pleasour and seruice, that na menis be vnassayed by 3ow, to bring pe treuth of pis matter to light; ffor as We ar most grevoullie offendit with pe cryme committed, so if pe doaris be nocht apprehendit, pe matter

¹ See the first Dittay.

² Example, precedent.

halylic tryit, and justice miniftrat accoirding pairto, it will fo much pe moir difcontent us. And fo We bid 3ow fairweill. FROM our Court at Quhytehall, the eglit of Januare, 1606.

Eftir the reiding of the quhilk Letter, my Lord Aduocat defyret, that, accoirding to the faid Letter, this matter fould be tryit, and my Lord Oliphant committit, quhill¹ the perfones contenit in the Letteris be exhibeit and presentit to justice.

The quhilk day, Lawrence Lord Oliphant, being enterit vpon pannell, be him felff, with Mr Williame Oliphant and Mr Alexander King, aduocattis, his prelocutouris, exponet and declairit,² fforfamekill as he, being charget, be vertew of our fouerane lordis Letteris, purchest at the instance of Patrik Gray, in North Bandirrane, eldeft fone, Gilbert and Johnne Grayis, alfo fones, with the remanent kyn and freindis of vmq^{le} Gilbert Gray, in North Bandirrane, and Sir Thomas Hammiltoun of Monkland, knycht, aduocat to our fouerane lord, for his hienes entreis, to find cautionn, actit in the buikis of Adiornall, that he fould compeir befor the Justice and his deputis this day, and place, in the hour of caufe, to vnderly the law, ffor airt and pairt of the felloun and crewall Slauchter of the faid vmq^{le} Gilbert Gray, allegit done and committit be the faid Laurence Lord Oliphant, vpon the . . . day of September lafbypaft, vpon the landis of North Bandirrane; at the leift, the famyn being done of the speciall caufing, fending, hounding out, devyfeing, airt, pairt-taking, directionn, counfalling, refetting with the bludie hand, command, affiftance and ratihabitounne of the faid Laurence Lord Oliphant, as the Letteris beiris. For obedience of the quhilk charge, he than fand Williame Moncreif of that Ilk fouertie for his entrie, this day and place, to the effect foirfaid; ffor quhais releif and tryell of his innocence in the faid matter, he compeirit, and offerit him felf reddie to abyde the tryell of the law for the faidis allegit crymes, quhairof he was maift innocent: difaffenting to all continuatiounne. And in refpect that the faidis Patrik, Gilbert and Johnne Grayis, perfeweris fpecifeit in the faidis Letteris, being oft tymes callit, compeirit nocht to infist in his lordfchipis perfute, for the crymes abone fpecifeit, protestit for releif of the faid Williame Moncreif of that Ilk, his cautioner, of his cautionerie foirfaid; and that he be nocht callit nor perfewit at the instance of ony pairtie, for the faidis crymes, in tyme cuming.

THE Justice continewis this matter to the thrid day of the nixt Justice-air of the therefdome of Forfar, or foner, vpon xv dayis wairning: And ordanis my Lord Oliphant to find cautionne for his compeirance, to the effect and in maner foirfaid; quha fand Sir George Toures of Innerleyth, knycht, fouertie for his entrie, vnder the panis contenit in the Actis of Parliament.

¹ Until. ² It is thus expressed in a sentence immediately preceding, ‘ My Lord Oliphant offeris him felf reddie to abyde the tryell of the Law, difaffenting to all continuatiounne; and feing thair is ane fufficient number of noble men in this burgh to pas vpon his Affyfe, defyres he may be put to the Tryell of ane Affyfe, instantlie, for the crymes lybellit.’

Slaughter — Bearing and Shooting of Hagbuts, &c.

Mar. 22.—GILBERT GRAY of Bandirrane, Patrik Gray, his sone, and Williame Broun in Hagishall.

Dilaitit of airt and pairt of the Slauchter of vmq^{le} Johnne Maister of Oliphant and of James Reid, sone to David Reid of Thridpairt, &c.

Compeirit Hew Reid, and produceit our souerane lordis Lettres, deulie execute and indorfat, and askit instruments of the production thair of; and protestit for his cautioneris releif, and offerit him selff reddie, with the assistance of the Kingis Maiesteis aduocat, to persew Patrik Gray and Williame Broune for the slauchter of vmq^{le} James Reid, his brother. Compeirit Mr Johnne Russell and Mr Thomas Hoip, aduocattis, and presentit the Kingis Maiesteis Letter, quhair of the tennour followis.

JAMES R.

JUSTICE, Justice Clerk and your deputtis, We greit you weil. Forfamekill as it is vnderstand to us, that our vtheris Letteris ar direct at the instance of ye kyn and freindis of vmq^{le} James Reid, sone to David Reid of Thrid-pairt, and our Aduocat for our intreis, for calling of Gilbert Gray, &c. to vnderly our lawis befor you, for airt and pairt of ye Slauchter of ye said vmq^{le} James, as our saidis Lettres beiris: As lykwayis, for Convocation of our leigis in airmes, and beiring, weiring and schuiting of hagbuttis and pistolettis, aganis ye tennour of our Actis of Parliament and Proclamations, maid and direct, expresse prohibeiting ye same: Nochtwithstanding, being informet pat ye said Slauchter was committit, and ye saidis forbidden wapones borne and vsed in the execution of our Commisshoun, direct for searching and apprehensoun of Gilbert Gray, sumtyme fervand to Gilbert Gray of Mekill Bandirrane, our denounced rebell, for ye crewall Slauchter of vmq^{le} Johnne Shiphird, for findrie crymes of Thift and vperis odious crymes committit be him: And that vmq^{le} Johnne Maister of Oliphant, and ye said vmq^{le} James Reid, in not withstanding of our saidis Commisshouneris, and assisting and plane partaking with ye said Gilbert our rebell, wer baith slane: for quhilk beiring, weiring and schuiting with ye saidis hagbuttis and pistolettis, our said Commisshoun, conteneing a speeciall Remissoun to our saidis Commisshouneris, and all vtheris our subiectis assisting pame, in execution pair of: And considering pairwith, pat ye execution of pis our Commisshoun, in pat soirt, may terrifie ye lyk malefactoris to continew¹ in thair wicked deidis, contempt and rebelloun. It is pairfoir our Will, and We command you, that vpon ye sicht heirof, ye stay all maner of proceeding against ye saidis Gilbert Gray of Bandirrane, Patrik Gray his sone, and Williame Broun, for ye said Slauchter of ye said vmq^{le} Maister of Oliphant and James Reid, the beiring, weiring and schuiting with ye saidis hagbuttis and pistolettis, or ony vtheris crymes exprest in our saidis Letteris, alreddie raist, or to be raist aganis pame for ye same, in tyme cuming, sua pat pai may inioy ye benefeit of our Remissoun, exprest in our Commisshoun foirsaid: As ye will answere to vpon your office and obedience; Quhairnant pis present fall be your sufficient Warrant. Gevin at our Court, in Quhytehall, ye penult day of Maij, 1604.

Mr Robert Lyntoun, Aduocat, substitute to my Lord Aduocat, allegis *ante omnia*, the persones persewit aucht to be enterit on pannel; and thairfoir, in respect of thair nocht entry, desyres of the Justice that thair cautioner may be vnlawit, and thai, for thair nocht compeirance, adiuget to be denuncet rebell and put to the horne; and that in ane Criminall persute, according to the daylie

¹ From continuing.

practik, the defenderis, befoir ony proces, fould be first enterit. The said Mr Johnne Russell allegit in the contrair, in respect of his Maiesteis Warrant; and forder, that his Maiestie, be his auctoritie, may ather command the Justice to hald Court or to continew the dyet, at his Maiesteis plesour.

THE Justice, in respect of his Maiesteis Letter, producet, continewis this matter to the thrid day of the air,¹ or soner, vpon xv dayis wairning, in the samyn estait as it was ofbefoir, aganis Patrik Gray and Williame Broune: And ordanis Johnne Lyndesay of Evlik, cautioner, in respect of thair nocht entrie this day and place, to remane still cautioner, conforme to the Act of Adiornall maid thair-upounne ofbefoir. Quhairupoun the saidis personeris and the said Mr Johnne Russell askit instrumentis.

Cattle and Horse-stealing.

JUN. 13.—ROBERT BEIROPE of that Ilk.

Dilaitit of airt and pairt of the Steilling of certane ky and oxin, pertening to Sir Johnne Ker of Hirfell, viz. fforfamekill as he, accompaneit with Robert Selbie of Bittildane, Loukie Davidfoun and diuers vtheris, his complices, common and notorious thewis, broken men, in the moneth of November 1596 yeiris, cam to the said Sir Johnnis place of Lytildane, and thair, vnder fyence and cloud of nycht, brak vp the byre-duris of the said place, and thifteouslie stall, concelit, reffet and away-tuik furth thairof faxtene ky and oxin, with fax horse and meiris, &c.

PERSEWER, Sir Johnne Ker of Hirfell.

PRELOCUTORIS for the pannell, The Lairdis of Pharnherst, elder and y^r, Mr Johnne Russell.

VERDICT. Found by the Assyse² to be ‘Clene, innocent and acquit.’

Slaughter.

JUN. 18.—JOHNE M^cDOWELL of Freuchie; Johnne M^cdowell, his ser-vand; Eufame Dunbar, Lady Garthland; Alexander M^cdowell of Barjarg; Alexander Neilsoun, fhear of Craigecaffie;³ Patrik M^cdowell of Creoches; Williame Bigholme in Galderioch; Gilchryft M^cmaister, thair; Vthreid M^ckie in Innerneffene;⁴ and Nicol M^cgowne in Trottingcoroche.

Dilaitit of airt and pairt of the Slauchter of vniq^{le} Quintene Boyd; committit in the moneth of Apryle lastbypast.

¹ Of Perth. ² Chiefly feuars. The chancellor was Johnne Mow of that Ilk. Johnne Halyburton of Mertoun, James Ker of Steilstokbrayis, Johnne Robsoun of Burvanes, and Patrik Diksoun of Belchefer, are the only persons of note who appear on the Inquest. ³ ‘Past fra simpliciter.’

⁴ ‘Past fra simpliciter.’

PERSEWER, Adame Boyd, as brother.

The perfonnes enterit on pannell askis instrumentis of thair entrie, and protestis for releif of the Laird of Mondurk, thair cautioner: And in respect of thair innocencie of the crymes lybellit, offeris thame selffis to the tryell of the law thairfoir, and disflawentis to all continuatioun.—The persewer passis fra the Lady Garthland *simpliciter*, in respect of hir innocencie.

THE Justice Ordanis the remanent Defenderis to find caution to the thrid day of the air, or soner, vpone xv dayis wairning.

QUESTION *of the Pannels being entitled to their expenses.*

It is allegit be the perfonnes on pannell, that in matters Ciuill, protestatioun being admittit in fauouris of the defender aganis the persewer, the Lordis are in daylie vse to modifie the parteis expenssis; *multo magis*, in matteris Criminall, a partie being persewit and compeirand, offerand him selff to abyde the tryell of the law, for the cryme quhairof thay ar indyttit, thair expenssis aucht to be modifeit, and the perseweris decernit to pay the samyn.

THE Justice declairis to this persewer, gif he raise Letteris of new agane, contrair thir defenderis, vpoune the crymes foirsaidis, gif thay fall happin to be clauget, he fall be adiudget to pay the defenderis expenssis, bayth for this dyet and the dyet following: And ordanis the Clerk to tak cautione of him at the raising of the Letteris to the effect floirsaid: Quhairvpoun the perfonnes on pannell askit instrumentis.

The ‘Affyfouris’ also protested, that ‘thai be nocht summond heirefter, for this cause.’

Oppression — Taking Captive — Murder.

Jun. 20.—THOMAS CALDER in Clwues, Johnne Oir in Calder, and Walter M^robie Roise in Mekil Geddes.

Dilaitit of airt and pairt of the Taking and Apprehending of v^mq^{le} Dauid Dumbar of Lochileis captiue and presoner; and convoying him captiue to Eryyll, and deteniing him in captiuitie, be the space of tuell oukkis.¹ And for airt and pairt of the Slauchter and Murthour of v^mq^{le} Williame Lyoun and v^mq^{le} Alexander Dauidfoun, seruandis to the said v^mq^{le} Dauid; committit in the moneth of October, the yeir of God I^m.V^c.lxxvij yeiris, within the toune of Aulderne.

PERSEWARIS, Alexander Dumbar of Lochieleis, (as sone,) Johnne Lyoun, as sone to v^mq^{le} Williame Lyoun, Andro Dauidfoun, as brother to v^mq^{le} Alexander.

PRELOCUTORIS for the pannell, Mr Thomas Henderfoun, aduocat, Mr Henrie Kynroise.

The saidis Thomas, &c. tuik thame to our souerane lordis Remissoun, producit, vnder the Greit Seill, of the dait, at Halyruidhous, the thryd day of Apryll,

¹ Weeks.

the yeir of God, 1^m.V^c.lxxx and nyne yeiris ; Quhilk Remiffioun, the Justice admittit, and Johnne Campbell of Calder, with thame felffis, become cautioneris and fouerteis, conimectlie and feuerallie, to fatisfie the pairtie, as law will.

[CURIA JUSTICIARIE *f. d. n. Regis, tenta in Aula Inferiori de Ormestoun-hall, per M. Willielmum Hairt, Justiciarum Deputatum.*]

Murder of a Pregnant Woman — Child-murder.

Nov. 10.—PATRIK DEANIS, in Gilcherstounne.

Dilaitit of the crewall and vnnaturall Murthour and Slauchter of vmq^{le} Katharene Butler his spous, and of ane infant bairne in hir wamb ; be streking hir with his feit vpon the wamb, and with ane fwyngill-trie,¹ on the bak and schoulderis, and dyuerse vtheris pairtis of hir body, scho being with quik bairne for the tyme ; be occasioun quhairof, scho immediatlie thaireftir, with the said bairne in hir wamb, depairtit this lyfe : Committit the fevint of Nouember instant, at his awin hous-dur in Gilcherstounne, betuix aucht and nyne houris at evin, &c. ; conforme to his awin Confessiounne.

VERDICT. The Assise, be the mouth of Johnne Harlaw in Laistounne, chancellor, ffand, pronuncet and declairit the said Patrik, conforme to his awin Confessiounne, maid judiciallie in thair presens, to be ffylet, culpabill and convict of the said crewall and detaiftable Murthour.

SENTENCE. And thairfoir the said Justice-depute, be the mouth of Johnne Hammiltoun, dempster of Court, decernit and ordanit the said Patrik to be tane to the ground quhair the said fact was committit, and thair to be hangit vpone ane gibbet, quhill he be deid ; and all his moveable guidis to be escheit, &c.

Slaughter.

Dec. 19.—EDUARD NISBET, merchand burges of Edinburghe, and Thomas Nisbett, sone to the Laird of Nisbet.

Dilaitit of airt and pairt of the Slauchter of vmq^{le} James Carmichell, sone to the Guidman of Vderine.

PERSEWERIS, Richerd Carmichell, brother, Williame Carmichell, father-brother, Marioun Carmichell, father-sister ; and Mr Johnne Russell, Aduocat, Mr Robert Boyd, curators to the said Richerd.

PRELOCUTOURIS for the pannel, Mr Alexander King, Aduocat, Sir Williame Cranstounne, Mr Thomas of Moriestounne, Mr Johnne Nisbet, James Nisbet, merchand.

Compeirit Richerd Carmichell, &c. with Mr Johnne Russell and Mr Robert Boyd, curatouris to the said Richerd ; and the said Mr Johnne, as spous to the said Marioun ; and producet his Maiesteis Warrant to the Justice ; quhairof the tennour followis.

¹ The wooden-beam, or 'tree,' to which the plough-traces are attached.

JAMES R.

JUSTICE, Justice Clark and your deutes, We greit you weill. Having directit to continew the perfute of Thomas and Edward Nibbettis, for the slauchter of vmq^{le} James Carmichell, quhill the information gevin vnto us of pair committing of pat fact in pair awin defence, war fyrst tryed by our Counfall; from quhom we have ressaunt ane cleir testimony of pair innocency of pat fact: And being most willing that Justice be administrat to all our luvving subiectis: It is thairfore our Will, that you affix and keip your Justice Court against the saidis personis, att sic place as salbe maist convenient; and putt same to the knowledge of ane Inqueist; so that the accusatiounes and defences of both the pairteis may be weill considered of by you, before that mater be adiudgeit: And that, nochtwithstanding ony command or direction gevin by us or our Counfall in the contrair; as ye will answer to us vpoun your office and obedience: Quhairnent for presentis salbe your Warrant. Gevin at our Court of Roytoun, the xiiij day of October, 1606.

And siclyk, producet our foverane lordis Letteris of Assyse and Dittay formet aganis the pannel; and tuik instrumentis of the productione thairof.—The pannel declairis, nochtwithstanding of thair innocencie of the Slauchter, they are content to enter in cownoning, and to offer satisfacioun and assythement for the slauchter, at the sicht of freindis.—The perseweris declairis, in respect that the bairne is minor quha persewis; and thairfoir, the remanent perseweris can nocht tak the burding of that mater vpone thame; and desyret proces. Thairafter Mr Alexander King, prelocutour for the pannel, producet his Maiesteis Warrant, direct to the Justice, for continuatioun of this matter to the xxviij day of Januare nixt; quhairof the tennour followis.

JAMES R.

It is our pleassour and Will, that ye continew all actione and proces before you, at the instance of the kyn and freindis of vmq^{le} James Carmichell in Dyfert, aganis Edward and Thomas Nibbettis, for the Slauchter of the said vmq^{le} James; committit in the moneth of . . . lasthy past; and nawayse proceed and grant ony proces thairin, before the xxviij day of Januar nixtocum: for the quhilk your delay and continewatioun, thir presentis salbe to you sufficient Warrant. Gevin at our Court off Quhytehall, the nynt of December, 1606. To our Ry^t trustie and weilbelouit, our Justice, Justice-clark, and pair deputis.

It is answerit be the perseweris, that the said Warrant of continuatioun aucht nawayis to be respectit be the Justice; bot nochtwithstanding thairof, the persones now on pannel aucht presentlie to be put to the knowledge of ane Assyse; for tua causis: *ffirst*, In respect of the former Warrant producet, quhairin tua speciall poyntis are maist remarkable; first, his Maiestie thairby hes declairit, that he hes ressaunt na cleir testimony of thair innocencie, be the tryell¹ tane at Leyth, befor the Counfall; and thairfoir, accoirding to his hienes good affection to justice, of his certane knowledge and proper motiue directit the first Warrant: The nixt, is the command gevin thairin to the Justice, with this qualite,² that he sall obey the samyn, nochtwithstanding of quhatsumenir vther command thair gevin be his Maiestie or Counfall in the contrair. *Secundo*, the

¹ Examination, *preognition*.

² Qualification.

faid pretendit laist Warrant is direct expres contrair the Act of Parliament 1592, quhilk fayis, it is statute and ordanit, be his Maiesteis speciall will and direction, that na Warrant for continuatioun of Justice Courtis sall be admittit be the Justice and his deputis, in tyme cuning. *Lass*, nocht only is it express aganis the faid Act of Parliament, bot aganis the daylie ordour and practik obseruet baith befor the Lordis of Counfall, in Ciuill caussis, and befor the Justice in Criminal caussis, that Warrantis purchest be the fute of partie, sinister information, and for stay of Justice, sall nevir be respectit; quhilk is also conforme to the cownoun law.—It is answerit, that the haill allegiances aucht to be repellit, in respect of the Kingis Maiesteis Warrant.

THE Justice, accoirding to his Maiesteis Warrant and direction, continewis this matter to the xxviij day of Januare nixt: And ordanis the persones on pannel to be wairdit within the Tolbuith of Edinburgh to the faid day,¹ and the Assyse, summond to this day, wairuit, *apud acta*, &c.

Cruel Slaughter.

Dec. 19.—JOHNNE and WILLIAME RUTHERFURD, fones to Stewin Rutherford in Chatto, boirne vnder James Ker of Greneheill.

Dilatit, accuset and persewit be DITTAY,

FORSAMEKILL as, thay haifing confaut ane deidlie feid, rancour and malice aganis vmq^{le} Thomas Bell in Spiddope-fute, in England, becaufe he had hurt and lameit the faid Williame, vnderstanding the faid vmq^{le} Thomas to haif bene in his fomer-scheill beyde the fellis,² in the moneth of Junij, or thairby, lastbypast, thay, vpoun cullour and in a counterfute forme, feimzeing thame sellis to be in feiking of ane kow that was tynt³ amangis the scheillis, come to the faid vmq^{le} Thomas Bell, in an howp⁴ callit Spittope-howp, quhair he wes, in sober and quyet maner for the tyme, with his wyfe and ane young las, milking thair ky; and thair, the faid William Rutherford, haifing ane grit grene kent and squarit batoun⁵ in his hand, eftir sum wordis past betuix the faid Williame and the faid vmq^{le} Thomas, he crewallie invadit him for his Slaughter, and gaif the faid vmq^{le} Thomas ane crewall and deidlie straik in his heid, and claif the famin afunder: Off the quhilk straik he immediatlie thaireftir fell down deid. Lyke as, the faid Johnne Rutherford, for quhais cause the faid deidlie feid was confaut, stude afyde, awaiting gif his brother had bene overthrawn, or the faid vmq^{le} Thomas, to haif fortifeit and assistit him. And immediatlie eftir the famin Slaughter wes committit, thay baith mett togidder at the nik of the fell,⁶ and hering the sprai⁷ch⁷ ryife, and the countrey to follow thame, thay baith fled in England; quhair thay were fugitiue, quhill⁸ thair apprehensioun for the faid Slaughter. And sa, the faid Slaughter wes committit be thame; and thay and ather of thame ar airt and pairt thairof, vpoun sett purpois, provisioun, auld feid and foirthocht felony; in hie and manifest contempt of our souerane lordis auctoritie and lawis, &c.

¹ There is no entry on Record of further proceeding in this case; but it is likely the Nishets compounded with the private prosecutors, and obtained Letters of Remission.

² The summer scheills or *scheillings* on the 'fells' or hills, were temporary huts, for the use of those who attended the cattle during their grazing on commons, &c. They are still kept up in many parts of Scotland. It is the practice to dismantle them at the end of the grazing season.

³ Lost. ⁴ Or *hope*, a sloping hollow between hills, a common term in the south of Scotland. *Slack* is synonymous.

⁵ A large *runq*, staff, or bludgeon, and a batoun or stick made square, (*i. e.* with angular edges,) to give a more severe and deadly blow.

⁶ Nik is a narrow cleft or opening, at the summit of two hills.

⁷ Hue and cry. By reference to the Works of Sir Walter Scott, it will be seen with what astonishing alacrity the country was

'raised,' on such occasions. The pannels showed no small address in effecting their escape.

⁸ Until.

VERDICT. Eftir accusatioun of the pannell, be Dittay, of the crymes aboue writtin, quhilk wes grantit be the said Williame, and alluterlie¹ denyit be the said Johnne, the Affyse, be the mouth of Murray of Brochtoun, chancellor, fand and pronuncet the said *Johnne* to be Cleane, innocent and acquit of airt and pairt of the Slauchter of the said vmq^{le} Thomas Bell, and of the hail heidis of the Dittay aboue writtin: And als, fand, pronuncet and declairit the said *Williame* to be flylit, culpabill and convict of airt and pairt of the said Slauchter.

SENTENCE. For the quhilk cause, the said Justice-depute decernit and ordanit the said *Williame Rutherford* to be tane to the Castellhill of Ed^r, and thair, his heid to be strikkin from his body; and all his movable guidis to be escheit, &c.

Breaking into the Place of Torwoodlee — Taking Captive — Murder — Stouthrief, &c.

Jan. 8, 1607.—JOHNE ELLOTT of Cappschaw.

Dilaitit, accuset and persewit be George Hoppringill of Torwoidlie, James and David Hoppringillis, as ovis,² with the remanent kyn and freindis of vmq^{le} George Hoppringill of Torwoidlie, thair guidschir,³ of the crymes following, viz.

FORSAMEKILL as the said Johnne Ellote of Copschaw, Robert Ellote, callit *Mairtenis Hob*, and Jok Airmestrang, callit *the Lairdis Jok*,⁴ with thair complices, with convocatioun of the hail Clannis of the Airmestrangis, Ellotes, Batiefones, Grahames and remanent Clannis, duelland alswell on the Inglis as Scottis Bordonris, all cownone thevis, outlawis and brokin men, to the number of thre hundredth perfones or thairby, bodin in feir of weir, with jakis, speiris, steil-bonnetis, lance-stalfis, hagbutis and pistoletis, expresse prohibeit to be borne, worne, vsed or schot with, be dynerse our Actis of Parliament and Secreit Counfall, in the moneth of December, the yeir of God I^m.V^c. threfcoir aucht yeiris, (1568,) come fordward, in hosteill maner, baith on horse and fute, to the Place of Torwoidlie, and thair, vnder silence and clud of nycht, with foir-hammeris and geistis,⁵ dang up the zeittis⁶ of the said Place, and be force and violence enterit within the samyn; and tuik the said vmq^{le} George [Hoppringill] furth of his bed, and convoyit him away, as captiue and prissoner with thame, to the Skaldeneise, within the Sherefdom of Selkirk; and thair maist crewallie and vnmerciefullie Murdreift and slew the said vmq^{le} George: Committing thairthrow, nocht only crewall and abhominabill Murthour and Slauchter, bot also Vfurpatioun of our fouerane lordis auctoritie vpon thame, in taking of the said vmq^{le} George Hoppringill captiue, but⁷ power or commissioun, he being our fouerane lordis frie lege. AND siclyke, at the samyn tyme, the said Johnne Elliott and remanent perfones, with thair complices, to the number aboue writtin, at the tyme soirfaid, brak up the hail kistis, cofferis and lokfast houffis within the said Place, and thiftionslie staw, conceillit, resset and away-tuik with thame, furth of the said Place of Torwoidlie, and stabillis thairof, sevintene horsis pertening to the said vmq^{le} George, price of the piece ourheid⁸ ane hundredth pundis money; togidder with the sowme of ane thousand pundis of gold and money furth of the said vmq^{le} George Hoppringillis purse. ITEM, thre siluer peices,⁹ wey-

¹ Altogether, wholly.

² Grandchildren.

³ Grandfather.

⁴ A personage well known to the public, from various anecdotes contained in the *Border Minstrelsy*, and the graphic story contributed by *Sir Walter Scott*, in that exquisitely beautiful Annual, 'THE KEEPSAKE,' for 1829; to which publication (pp. 186-192) the Editor refers for interesting Notices of this Border worthy, his family and associates.

⁵ Forehammers, and joists or beams.

⁶ Broke up the gates.

⁷ Without power.

⁸ Overhead, on an average.

⁹ The nature of these massive pieces of plate is not elsewhere specified. They convey a favourable idea of the wealth and splendour in which many of the Border Chieftains lived.

and fourfoir vnecs of filuer or thairby, price of the vnce fourtie schillingis. ITEM, tua duffane of filuer spvnes, ilk spwne weyand tua vnce of filuer, price of the vnce fourtie schilling: Togidder with the haille bedding, naiprie, clething, abuilgementis, inficht and pleniffing being within the said place, worth the fowme of fyve thousand merkis money of this realme, had and transpourtit away with thame, and disponit thairvpoun att thair pleafour.

THE JUSTICE decernit and ordanit Williame Elliot of Fallinascle, cautioner and fouertie for the entrie of the said Johnne Elliot of Capshaw, to be americiat and vulawit for his non-entrie, in the payne of fyve hundreth merkis: And als, adiudget the said Johnne to be denunceit our fouerane lordis rebell, and putt to the horne; and all his movabill guidis to be efcheit and inbrocht to our fouerane lordis vse, as fugitiue fra his hienes lawis, for the saidis crymes.¹

Justice-Depute appointed.

Jan. 20.—THE quhilk day Mr ROBERT COKBURNE, Aduocat, was creat JUSTICE-DEPUTE; and gaif his ayth *de fidei administratione*, during his office.

[*Mr Robert Cockburne, Justice-Depute.*]

Liability Anent the General Band.

Jan. 21.—SIR JAMES JOHNESTOUNE of Dunskeillie, kny^t (of that ilk).

Compeirit the Laird of Johnnestoune, and producet the Warrant vnderwritin, superferyuit be his Maiestie; quhair of the tennour followis.

JAMES R.

JUSTICE, Justice Clark and your deputis, We greit you weil. Forfamekill as it is knawin to us, that thair ar diuerse Criminall perfuitis movit at the instance of sundrie persones aganis Sir James Johnnestoune of Dunskeillie, kny^t, his kyn, freindis, pairt-takeris, men, tennentis, seruandis, and sic vperis, for quhom the (said) Sir James is answerable, be the Generall Band and law of our realme; and that, for diuerse crymes alledgeit committit be same, befor the moneth of Apryll, 1st.V^e. thre zeiris, quhilk wes the tyme of owre repair hither: Albeit it be naper our will nor mynd, that the regour of the lawis be prosecuted aganis thais persones for ony crymes or offences committit be thame before the foirlaid tyme; hoping that our lenitie sall move same to keip our peax, and be the moir obedient subiects in tyme cuning: It is pairfore our Will, and We command you, that the on nawayis gif proces in any of the saidis Criminall perfuitis alreddie movet aganis the said Sir James, his kyn, freindis, pairt-takeris, men, tennentis, seruandis, and sic vperis for quhom he is answerable, be the Generall Band and lawis of our realme; nor that ye on nawayis direct any Criminall Letteris, for perfuit of the saidis persones, or any of same, in tyme cuning, for any cryme or offence alleget committit be same or any of same, preceding the moneth and tyme aboue specificit; nor nawaye gif proces pairvpoun heirefter: Dischargeing you pair of, and of all haulting of Courtis to that effect, and of your office in that pairt: Dispensand alwa with the saidis persones and everie one of same, anent pair non-comperance att quhatsumewir dyettis. As ye will answer to us pairvpoun: Quhairanent thir presentis salbe your sufficient Warrant. Gewin at our Court of Quhytehall, the saxt day of Apryll, 1606 zeiris.

THE JUSTICE Depute continewis the admitting of this Warrant to the fourt day of Februar nextcom: And ordanit the personne that stand cautioner for

¹ The denunciation and letters are recorded, at full length, on Jan. 9.

their entrie to this day, to find new caution for thair entrie to the said fourt day of Februar nextcum.

The samin day Sir James Johnnestoune (of Dunskellie, kn^t.) becom pledge and fourtie for Johnne Grahame in Dryffe, Mungo Johnnstoun in Lokarbie, &c.

(Feb. 4.)—Sir JAMES JOHNNESTOUN of Dunskellie, kny^t, is ‘americiat for nocht entrie of the saidis fyve persounis, for ilk ane of thame in the payne of ane hundreth merkis.’ He is also americiated in 1100 merks, for the non entry of Johnne Johnnestoun in Howgill, and ten others.¹

THE Justice adjudgeit the principall persones nocht comperand to be denunceit our souerane lordis rebellis, and all thair movabill guidis to be escheit.²

Cutting Growing Timber.

Jan. 28.—GEORGE HENDERSOUN in Wyningtoun.

Dilatit, accusit and perfewit be Robert Ellote of Reidheuche, of the crymes following, that is to say,

THAT quhair, it is exprellie provydit, statute and ordanit be our souerane lordis Actis of Parliament, speciallie, be ane Act of the ellevint Parliament, cap. lxxxij, that quhatsumewir persoun or persounis wilfullie cuttis doune and destroyis growand treis and coirnis, salbe callit and perfewit thairfore, before the Justice or his deputis, at Justice-airis, or perticuler dyettis; and being convict thairof, to be pwneiffit as thewis to the death; as the said Act at mair lenth beris. And trew it is, that the said George Henderfoun, with his complices, expres contrair the tennour of the Act of Parliament, in the monethis of Junij, Julij, August, September and October *respective*, at the leist, in ane or vther of the saidis monethis, in the yeir of God 1^m.Vj^e. and fyve yeiris; and siclyke, att the fleist of Martimes last-bypast, come to the said Robert Ellottis wod, callit Birkwod, and thair, wilfullie, by³ the said Robertis knowledge or consent, cuttit doune and destroyit, at ilk tyme, the perticuler number and quantitie of growand treis following, to witt, ane hundreth grit growand birk treyis, thre hundreth grit growand allouris, thrie hundreth grit growand heiffillis, with foure hundreth grit growand sauch treis;⁴ quhilkis growand treis, the said George and his complices had and transpoirit away with thame, and disponit thairvpone att thair pleafour; and the said George is airt and pairt thairof.

PERSEWER, Robert Ellote of Reidhenche.

PRELOCUTORIS for the pannell, Mr Thomas Henderfounne, Mr Johnne Dempster.

It is allegit be the pannell, that this matter can nocht be put to the knowlege of ane Inqueist, becaus the persewer schawis na sufficient entreis to persew, nather is this persute raisit at the Kingis Aduocatis instance.—Ansuerit be the persewar, that he referris the notorietie of his entreis to persew for the cuting of the treyis lybellit, to the defenderis ayth; in respect that he knawis him to be sufficientlie infest in the woid lybellit; and as to the secund pairt, anent the Aduocattis compeirance, ansuerit, he may persew without the Aduocatis compeirance. It is allegit be the pannell, that he can nocht be vrget, vpone the

¹ (On margin) ‘Nota, ordanit to be gewin out be pe Counfall.’
to be given out.’

³ Without, contrary to.

² Nota, ‘this nocht ordanit
⁴ Birch, *allar* (alder or elder), hazel, and willow trees.

perfewaris exceptiounne, to geve his ayth; feing the famyn will tend to the hazaird of his life.—The perfewer in the contrair.

It is allegit forder be the pannell, that this matter can nocht be Cryminallie tryet, without a Ciuill precognitionne, before the ordinar Judge; becaus the famin is a maisterfull depridatiounne.—It is anſuerit, that the perfewer repeitis the Act of Parliament, quhairuponne the ſummond is foundit.—It is anſuerit be the pannell, that the Act of Parliament of the 1587, concernis the puneifchment allanerlie; and nawyis invertis nor derogatis the Act of Parliament made be King James fyft, Parlamento quarto; and ſpeciallie, feing of the daylie practik, ſſafetis man be firſt Ciuillie tryet, befor it cummis to ane Criminal Judge; Wilfull errorr in Aſſyſe in Reductioun of Retouris man be firſt Ciuillie tryit, befor it tak effect befor the Criminal Judge.—The perfewer, as of befor, repeitis the Act of Parliament.

THE Juſtice continewis this matter, and Interlocutour vpoun the allegiances foirſaidis, to the fourt of Februar nixt. The pairties and Aſſyſe wairnit *apud acta*.

[*Mr Williame Hairt, Juſtice-Depute.*]

(Feb. 4.)—THE Juſtice, nochtwithſtanding of the allegiances maid be the pannell, the laſt dyet, Ordanis this matter to pas to ane Aſſyſe.

VERDICT. The Aſſyſe, be the mouth of Johnne Gledſtanes of Winningtoun-law, chancellor, ſſand, pronunceit and declarit the ſaid George Henderfoune to be Cleane, innocent, acquit, &c.

[*Mr Robert Cokburne, Juſtice-Depute.*]

Slaughter.

Feb. 14.—JOHNNE BEK in Lytill Kirkbryde.

Dilatit of airt and pairt of the Slauchter of vmq^{le} James M^cCulloch of Barholme.

PERSEWER, Thomas M^cCulloch in Barholme.

The ſaid Thomas tuke him to ane Remiſſiounne vnder the Grit feill, of the dait the xxj day of Februar, 1606; and ſielyke, produceit ane Letter of Slaynes, ſubſeryuit be Elizabeth Kirkpatrik, relict of vmq^{le} James M^cCulloch of Barholme, Henrie M^cCulloch hir ſpous, and Thomas M^cCulloch now of Barholme, and Johnne M^cCulloch burges of Kirkcubreyelit, off the dait at Edinburgh, and the xvij and . . . dayes of Februar, 1607 yeiris.

[*Mr Williame Hairt, Juſtice-Depute.*]

Witchcraft — Sorcery — Incantation, &c.

Mar. 10.—ISSOBEL GREIRSOUNE, ſpous to Johnne Bull, warkman in the Pannis.¹

¹ Prestonpans. Of all the Trials for Witchcraft, &c. hitherto published from the Record, this is perhaps the most absurd and *outré*; and the circumstantial detail is perhaps *unique*. It is of course

Indytit, accusit and perfewit of the crymes vnderwritten, viz. **FORSAME-KILL** as scho, haifing confaut ane crewall haitrent and malice aganis Adam Clark in Prestounpannis, scho has continewallie, this haille yeir and ane half bygane, vsit all develifch and vngodlie meanis to be avangeit vpoun him ; speciallie, in the moneth of Nouember, the yeir of God I^m.Vj^c. and sax yeiris, betuix xj and xij houris at ewin, the said Adam being lyand in his bed with his wyffe, and his seruand woman being in ane vther bed ; att the quhilk tyme, scho, in the liknes of hir awin catt, accompaneit with ane gritt number of vther cattis, in ane develifch maner, enterit within hir hous, quhair thay maid ane grit and feirfull noyse and trubill ; quhairby the said Adam, than lying in his bed with his wyffe, and seruandis that wer than in the hous, apprehendit sic ane grit feir, that thay wer liklie to gang mad : At the quhilk tyme, the Devill, in liknes of ane blak man, apperit in the hous, eftir ane feirfull maner, com to the seruand woman, than standing in the flure, and drew hir vp and down the hous be the hair, eftir he had cassin hir curfch² aff hir heid, and cassin the samyn in the fyre : Quhairvpoun the pure woman contractit sic ane grit feiknes, that scho lay bedfast, in grit danger of hir lyffe, be the space of sax oulkis³ thairefter ; and as yit hes nocht returnet to hir perfyte health ; quhilk is notourlie⁴ knawin.—**ITEM**, scho wes accusit, fforfamekill as scho, haifing confaut ane deidlie feid, rancour and ewill will, aganis vmq^{le} Williame Burnet in Prestoun-pannis, spous to Margaret Myller, wedow, scho dewysit be all devillifch and vngodlie meanis to bereif him of his naturall lyffe ; and for performance thair of, sche, as ane manifest Sorcerer and Wich, in the moneth of Januar, I^m.Vj^c. yeiris, laid on ane feirfull and vnouth feiknes on him, be casting in of ane tailzie⁵ of raw inchantit flesch att his dur : And thaireftir, the Dewill, in liknes of ane naikit infant bairne, nichtlie, for the space of half ane yeir, appeirit in his hous ; quha appeirit befor the ffyre, haifing ane inchantit pictour in his hand : And thaireftir, the Dewill appeirit, in hir liknes, within the said vmq^{le} Williamis hous, before the ffyre thair of, and in diuers vtheris pairtis within the said hous ; quhair, in ane maist vn-honest and filthie maner, scho pischt vpoun the said Margaret Myller, and in diuers pairtis of the said hous ; that in end,⁶ the said vmq^{le} Williame, haifing namit the said Isobell, be hir name, scho immediatlie thaireftir vaneischit away : Eftir the quhilk tyme, the said vmq^{le} Williame Burnet continewallie dwynit and pynit away, in the said vknawin feikness, for the space of thre yeiris, nocht habill to obtene ordinar cuir ; and at last, in the moneth of September, or thairby, I^m.Vj^c. and ffyve yeiris, he, in grit dolour and payne, departit this lyffe : And

given *literally* from the Books of Adjournal. The reader is left to draw his own inference as to the death (murder?) of the luckless mate of *John Bull*.

Fr. *courche*.

² Six weeks.

⁴ Notoriously.

⁵ *Taille*, Fr. A piece, 'gobbet,' or cut.

⁶ At last.

fa, wes maist dewelischlie bewichit be hir, in maner forsaid; and scho is airt and pairt of the said vmq^{le} Williamis death and feiknes.—ITEM, accusit for casting of ane greit feiknes, be hir develisch meanis, vpoun Robert Peddan, in the Pannis; and that in the moneth of October, I^m.V^c.lxxxiiij yeiris; quha, haifing remanit feik be the space of ane yeir and auchtene oulkis, fweruing and vaneisch-ing away;¹ and vsing all ordiner meanis to recover his health, hot daylie grow-ing war,² att last he callit himself to remembrance, that he wes addettit to the said Isobell in nyne schillingis and iiij d.; and that, befor the taking of the said feiknes, becaus he refusit to pay hir the said soume, vnto the tyme scho delyuerit to him certane plaittis that scho kepit of his; scho then, eftir vtering of diuerse blasphemous speichis to the said Williame, said, he ‘fould repent itt!’ And ‘fould nocht haif bayth his health and haill clathis togiddir!’ Quhairvpoun, he than come to hir, and satisfeit hir the said soume, and thryse askit his health att hir, for Godis saik; saying, ‘Gif ze haif done me ony wrang or hurt, repair pe famin and restoir me to my health!’ And thaireftir, the said Robert Peddane, within, xxiiij houris, recoverit his health.—ITEM, scho wes accusit, that in the moneth of Junij lastbypast, or thairby, scho, haifing wantit hir katt, be the space of half ane yeir befor, in hir bycumming the said Robert Peddanes window, scho patt in hir hand and drew furth hir catt; at the quhilk tyme, thar wes working in the fattis³ ane brewing of guid new aill, quhairof sundrie honest neychtbouris wes than drinkand; bot be hir develisch Incantatioun and Sorcerie, fra that tyme furth, the said brewing of aill turnit,⁴ in sic foirt, that it becam altogidder rottin and blak, thik lyk gutter-dirt, with ane filthie and pestilent odour, that na man mycht drink nor feel the smell thairof.—ITEM, being indytit and accusit, fforfamekill as scho, haifing consauit ane deidlie cwill will, haitrent and malice aganis Margaret Donaldsoune, spous to the said Robert Peddane, about Hallowevin, in the yeir of God I^m.Vj^c. and fyve yeiris, scho, in hir devill-isch maner, come vnder scilence and cloude of nycht to the said Robert Peddanes house, and enterit efter ane devillisch and vnknawin way within the said house, the said Margaret Donaldsoune being than lying in hir bed with hir said hus-band, sound sleeping; at the quhilk tyme, scho drew the said Margaret be the spald⁵ out of her bed fra her husband, and violentlie rusclit hir to the fluir; be occasioun quhairof, the said Margaret hir spreit faillit hir, that scho continewit ane lang space asound;⁶ and thaireftir, cuning to hir self, scho fell in ane feirfull and vncouth feiknes, that anes in ilk xxiiij houris, her hed and breist was sa vehementlie trublit, that scho was, for the space of ane hour, mad, and knew nocht quhat scho did; quhilk continewit the space of fyve or

¹ Swooning and fainting away.² Worse and worse.³ Vats or tuns.⁴ Ale is said tobe *turned* when it is affected by lightning, &c.; milk, when soured by sun or heat, &c. A large nail is usually thrown into the churn, to prevent this disaster. By attracting the electric fluid, it is said to preserve the contents sound.⁵ Fr. *epaule*, the shoulder or shoulder-blade.⁶ In a swoon.

fax dayes thairefter, in grit vehemencie : And at the fax dayes end, scho heiring hir selff to be bruittit¹ with the said wicked and devellisch turne, scho desyrit the nychtbouris to cause hir and the said Margret to drynk togidder ; quhilk being done, scho recoverit agane hir health, and sa continewit in perfyte health, the space of aucht or ten dayes : Eftir the quhilk time, scho heiring hir name to be sklanderit, and scho to be namit a Witche, quha had skill to lay on and tak af feiknes ; scho, movit with rage and invy, of new agane, come to the said Margrattis hous, and spak to hir mony devillisch and horribill wordis, faying to hir, ‘ The fagget of Hell lycht on thé, and Hellis culdroune may thow feith in !’² And with thais, and vther the lyk devillisch speicheis, scho past away. Eftir the quhilk tyme, the foirsaid feirful feiknes tuke the said Margaret ; quha continewit thairin ilk xxiiij houris, for the space of ane hour, be the space of nyne oulkis³ togidder, in maist feirfull maner ; vnto the tyme ane pure woman come to the said Margrettis hous-dur, to ask meit ; quha, feing the said Margret wisleit⁴ with the said feirfull feiknes, declairit to hir, that scho was witcheit, and had the rycht champ⁵ thairof : Eftir the quhilk tyme, the feiknes ceissit, and came nocht to hir agane, quhill the beginning of December last, that scho, cuning thair by hir dur, with ane creill⁶ on hir bak, said to hir, ‘ Away theiff ! I fall haif thy hairt, for bruitting of me sa falslie !’ And immediatlie thairefter, the feiknes of new agane come vpoun hir ; quhairintill scho hes bene maist havelie vexit and trubillit senfyne, to the xxvij day of Januar last, that scho and scho war confrontit togidder, and examinat, in presens of my Lord Justice, of your devillische crymes abouewrittin.—ITEM, for ane commoune Sorcerer and ane Witche and abuser of the peple, be laying on and taking af of feiknes and dis-eisses, and vseing all devilleisch and vngodlie meanis to wyn hir leving ; and Vser of charmes and vther devilleisch practizes.

PERSEWAR, Adam Clark, smyth in the Pannis, Margaret Myller, relict of vmq^{lo} Williame Burnet, Robert Peddane, and Margaret Robiesone, his spous.

PRELOCUTOR for the pannel, Robert Hammiltoune, John Bull in the Pannis.

VERDICT. The Assyse, be the mouth of David Seatoun, (bailzie in Trauent,) chancellor, stand, pronunceit and declairit the said Issobell Grierfoune to be flylit, culpabill and convict of all and findrie the heidis and poyntis of Dittay aboue writtin, and crymis contenit particulerlie thairin.

SENTENCE. The Justice-depute, be the mouth of James Henderfoun, dempstar, decernit and ordanit the said Issobell to be tane to the Castell-hill of Edinburgh, and thair to be wirreit⁷ at ane staik quhill scho be deid ; and her body to be brunt in assis, as convict of the saidis crymis ; and all hir movabill guidis to be escheit and inbrocht to our souerane lordis vse, as convict of the saidis crymes.

¹ Issobell hearing herself to be reported. Fr. *bruit*.

² Caldron may thou see the in.

³ Weeks.

⁴ Visited, tormented.

⁵ Stamp, mark, token.

⁶ Basket, *creel*.

⁷ Strangled.

Forstalling and Regrating.

May 19.—JOHNNE REULL, indueller in Leyth.

Dilaitit for contravening the Actis of Parliament, in ffoirstalling and regrait-
ing of tymmer.¹

PERSEWER, Sir Thomas Hammiltoun of Monkland, knyght, Aduocat.

PRELOCUTOURIS in defence, Mr Alexander King, James King.

It is allegit be the pannell, that he can nocht be put to the knowlege of ane Affyse for the cryme lybellit, becaus the tymmer lybellit was bocht be his fervand in Norruay, enterit in the townes buikis, as his awin proper tymmer, and hes payit his Maiesteis custome thairfor : And for verificatioun thairof, producet the entrie of the tymmer in the townes buikis of Edinburgh, as his proper tymmer, and quhair he payit the custome thairof.—It is answert be my Lord Aduocat, that the allegiance aucht to be repellit, in respect nathing is producet to preve the bying of the tymmer, be him self or his fervand ; and is contrair to the fummondis, quhilk beiris the ffoirstalling of tymmer, befor the samyn was presentit to marcat.

VERDICT. The Affyse, be the mouth of James Forman, (water bailzie,) chancellor, ffand, pronuncet and declairit the said Johnne Reull to be ffylit, culpable and convict of cownone Regraiting and ffoirstalling of all foirtis of tymmer, cunand and aryveand at the said Poirt and hevin of Leyth, and sa to be repute and haldin : And Clanget and acquit him of the haille remanent poyntes of the said Dittay.—Edward Edzer, merchand burges of Edinburgh, become fouertie for the entrie of the said Johnne the morne, to heir dome pronuncet, &c.

SENTENCE. The Justice, being resoluert thairwith, and with the Act of Parliament maid thairanent, Decernit and Ordanit the said Johnne Reull to content and pay to our souerane Lordis Thesaurer and his deputis, the sowne of fourtie pundis money of this realme of North Britane,² as penaltie designat in the said Act of Parliament aganis cownoune Regraiteris and ffoirstalleris, for the first falt. And als, ordanit the said Johnne to find cautionne actit in the buikis of Adiornall, to abstene fra all maner of foirstalling or regraiting of tymmer in tyme cuning, vnder the pane of ane hundreth merkis.³

Appointment of a Justice-Depute.

Jun. 2.—MR ALEXANDER COLUILL, sone to Alexander, Commendator of Culrois,

Gaif his ayth *de fidei administratione* in the Office of Justice-deputrie ; and thaireftir was creat and admittit Justice-depute.

¹ Timber. ² This is the first time Scotland is so designated in this Record. Indeed it is very unusual, even for a century after this period. ³ Edzer again becomes his suretie.

Slaughter.

Jun. 26.—WILLIAME GUTHRIE of Ravensbie.

Dilatit of airt and pairt of the Slauchteris of vinq^{le} Patrik Gairdin of that Ilk, and vinq^{le} Robert Gairdin of Tullois, committit in the moneth of . . . I^m.V^c. threfcoir auchtene yeiris.

PERSEWER, Mr Robert Gairdin Younger of Blairtoun.

George Leslie, fear of Kinragie, become plege and fouertie that he fall compeir befor the Justice or his deputis, the thrid day of the nixt Justice-air of the scherefdom of Abirdene, or soner, vpoun xv dayis wairuing.

Slaughter — Lebying 'Skatt' or Black-mail — Stouthreif, &c.

Jun. 27.—ALLASTER STEWART M^cGILLIECHALLUM, brother to Johnne Stewart, *alias Johnne Dow M^cgillichallum* of Temandrie.

Dilaitit, accuset and persewit be DITTAY following, viz. That is to say, of airt and pairt of the Slauchter of vinq^{le} Johnne Stewart of Bonskeid; committit in the moneth of December, the yeir of God I^m.Vj^c. and fyve yeiris, betuix Duukeld and Atholl, vpoun sett purpois, provisioun and foirthocht felony. ITEM, for airt and pairt of the Slauchter of vinq^{le} Johnne Stewart, secund sone to the said vinq^{le} Johnne Stewart of Bonskeid; committit about Paifch,¹ in the yeir of God I^m.Vj^c. and sax yeiris, vpoun the landis of Kilbrochene. ITEM, for airt and pairt of the Slauchter of vinq^{le} Williame Leith, att the Kirk of Crathie in Cromar; committ about tuell yeiris syne, or thairby. ITEM, for cuning with Johnne Dow, his brother, to the boundis of Strathardill, in the moneth of July lastby-past, and compelling of the tementis of the landis of Strathardill to pay to thame ane skatt² of foure hundreth merkis or thairby; committand thairby manifest Oppressioun. ITEM, for the thiftious Steilling and reving, be way of maisterfull Stouthreif, fra . . . Donaldsoun, chapman, of his pak, with certane merchandice thairin; committit thre yeiris syne or thairby.

PERSEWER, Mr Robert Lyntoun, Aduocat-substitute.

ASSISA.

Alexander Dumba, schereff of	Patrik Moncur of Chapelton,	Tho ^s Farguison of Bellewehane,
Murray,	Johnne Moneur, sone to the Laird	Williame Stewart of Kynnaird,
Sir Thomas Stewart of Garnetull-	of Moncur,	Colene Campbell of Boslie,
lie, knycht,	Mr Alex ^r Hay of Kynmwdie,	Angus Williamson of Termet,
Dauid Drummond, Chalmerlaue	Alexander Flemyng of Monefs,	Robert Chryffie, tailzeour, burges
to my Lord Drummond,	Thomas Otterburne of Reidhall,	of Edinburgh.

VERDICT. The Assyfe, be the mouth of Thomas Otterburne, chancillar, ffand, pronunceit and declarit the said Alexander Stewart to be ffylit, culpable and con-

¹ Pash, Lat. *Pascha*, Easter.

² A compulsory tax, contribution, or fine, somewhat similar (in

vict of airt and pairt of ilk ane of the pointis of Dittay, *respectiue* aboue writtin, and of the crymes contenit in the famin, conforme to his Confessioun product in judgement, quhilkis he ratifeit.

SENTENCE. And thairfore, the said Justice-depute, be reasoun thair of, and of his speciall Convictioun, of the thiftious steilling and reving, be way of masterfull Stouthreiff, fra . . . Donaldfoun, chapman, of his pak and merchandice contenit thairin, be the mouth of Robert Montgomerie, dempstar, Ordanit the said Alexander Stewart to be tane to the mercat Croce of Edinburgh, and thair to be hangit vpoun ane gibbet, quhill he be deid; and all his landis, heretageis, takis, ftedingis, rowmis, possessiounis, coirmis, cattell, guidis and geir to be fforfalt and escheit, &c.

Slaughter of Alexander Lord Spynie.

Jul. 8.—DAVID LYNDSEY, fear of Edzell; Thomas Lyndsay, sone naturall and seruitor to David elder of Edzell; Harie Lyndsay, sone to David L. of Kymettillis; Mr Johnne Lyndsay, sumtyme Minister at . . . , sone to Johnne L. of Barrese, seruitor to the auld Laird of Edzell; George Lyndsay, brother to the Laird of Covingtoun, also seruitor to the Laird of Edzell elder; Mr James Lyndsay, sone to . . . L. of Brodland; Andro Stratoun; . . . Home, sone to Robert Home of the Heuche; Gawin Lyndsey, father-brother to the said Laird of Covingtoun.

COMPERIT George Guthrie, seruitor to vinq^{le} Alexander Lord Spynie, and product our souerane lordis Letteris, dewlie execute and indorfat, purchest att the instance of Dame Jeane Lyoun Lady Spynie, the relict; Alexander Maister of Spynie, eldest sone; David Erle of Craufurd Lord Lyndsay, &c., Sir Harie L. of Carriestoun, knycht, Sir Johnne L. of Woidwrae, knycht, as brether, with the remanent kyn and freindis of vinq^{le} Alexander Lord Spynie; to tak souertie of the said David, &c., that thai shuld compeir befor the Justice or his deputis this day and place, in the hour of cause, to vnderly the law, for airt and pairt of the Slaughter of the said vinq^{le} Alexander Lord Spynie. Be the quhilkis Letteris, the saidis personis war denunceit our souerane lordis rebellis and put to the horne. Vpone the productioun quhair of, the said George Guthrie askit instrumentis, and protestit for releif of Harie Lyndsay of Carrestoun, cautioner for reproductionne thair of.

this instance at least) to *Black-mail*. *Scatt*, properly, was a feudal tax anciently paid, in Shetland, to the King of Denmark; and at present Lord Dundas draws a considerable sum of *Scatt*; which is understood to be payable chiefly in kind, *e.g.* butter and oil, &c.

Treason — Celebration of the Mass, &c.

Sep. 25.—WILLIAME MURDOCHE alias M^cKIE, Preist, borne in Dunkeld.

Dilaitit, accuset, and persewit be Mr Robert Lyntoun, Aduocat, substitute to our souerane lordis Aduocat, FOR contravening his Maiesteis Actis of Parliament, in the treffonabill faying of Mefs, at dyuerse tymes, within the houffis and places following, in the monethis of Januare, ffebruare, Marche, Apryle, Maij, Junij, Julij, August, September, October, November and December, in the yeiris of God I^m.V^c. fourfcoir fourtene, fyftene, faxtene, sevintene, aughtene, nyntene, fax hundreth, fax hundreth ane, tua, thre, four, fyve, and fax hundreth and fax yeiris ; at the leift, in ane or vther of the saidis monethis and yeiris of God : And that within the places and houffis of Strabogie, Boig of Geicht, the Lady Sutherlandis house in Suderland, Dwnrobyn, the Lady Auchindownis house, in Mr Alexander Leslie's hous, Patrik Butteris house, belyde Aberdene. ITEM, for faying of ane Saul-mefs (*soul-mass*) for the Lady Auchindown, in ane puir mannis house in Strabogie, a littill eftir hir deceife. ITEM, in the Guidman of Carrones hous, callit Grant, and in Williame Leslie of Conrakis house ; and in dyuerse vtheris places and houffis in the North ; being accompaneit with dyuerse our souerane lordis leigis at the saidis Messis : Committing thairthrow the cryme of Treffone, and incurring the panes specifeit in the saidis Actis of Parliament, maid aganis the fayeris of Mefs, viz. tynfall and fforfaltour of lyfe, landis and guidis ; as at mair lenth is contenit in the Dittay and Depositiones maid be the said Williame thairupone.

VERDICT. The Assyse, be the monthle of Abrahame Hammiltoune, snyth, chancellor, in respect of his Confessioun, maid judiciallie, of the haill Dittay and Depositiones producet, stand, pronunceit and declairit the said Williame Murdoch to be ffylit, culpable and convict of the crymes aboue specifeit.

Thairefter, the said Mr Robert Lyntoun, substitute to our souerane lordis Aduocat, producet ane Warrant of his Maiesteis, vnder his hienes hand-writt, desyreand the Justice, according thairto, to pronunce DOME aganis the said Williame Murdoch, Preist, quhairof the tennour followis.

To our right trustie and weilbelouit counsers and counfallouris, the Erle of Dumfermeling, our chancellor, and remanent Lordis and vperis of our Previe Counfall, in our kingdome of Scotland, these.

JAMES R.

RIGHT TRUSTIE and weilbelouit counseingis and counfallouris, We greit 3ow weil. Whearas, ane Murdoch alias M^ckie, Preist, was apprehendit by the Bischope of Murray, and is presentlie in waird, within the tolbuthe of Edinburghe, whear he lies lyne this long tyme past : Our pleafour and Will is, that 3ow cause him be proceidit aganis, in maner following : first, that he be presentit befor our Justice pair, and abyde his ordiner tryell, whearin no dout he will be ffund culpable, vpon his awin Confessioun ; and than our pleafour is, that our said Justice do pronunce the judgement eftir following aganis him ; in appointing him to be tane to the mercat croce of Edinburghe, being clad in his Mefs-

claithes, in the same forme that he wes takin; and eftir he hes bene presentit to the vew of the hole people, he than be strypped of all his Mefs-clothes; and the same, with all his vther Popishe baggadage that was apprehendit with him, to be presentlie cast into the fyre, pair reddie for the purpose, to be confumed and brunt to asches: And pairwith, that he be adiudget to be BANISCHET furth of all our dominions, indureing his naturall lyfe; vnder the pane of daith, in caice of his returne bak to ony pairt of pe same: And willing 3ow to give vnto our Justice particuler directionn heiranent, and to be cairfull to see the same, in everie poynt, execute, We bid 3ow haitlie fairweill. FROME our Court at Theobaldis, the xvij of September 1607.

SENTENCE. Accordiing to the quhilk Warrant and directionn, the Justice-depute decernit and ordanit the said Williame Murdoche, preist, to be takin, on Monunday nixt, to the mercait Croce of Edinburghe, cled in his Mefs-claythis, and thair to stand chenzzeit,¹ fra ten houris to tuelf befoir none; and thaireftir, ane fyre being kyndillit at the said Croce, the said Mefs-claithes to be cassin af him and brunt in the said fyre, with all his vther Popishe baggadage that war apprehendit with him. Quhilk solemnitie being vsed, Ordanis the said Williame to be Banisched furth of our fouerane lordis haill dominions, during his lyfetyne; and nawayis to returne within the samyn, vnder the pane of daith: And to be transportit bak agane fra the said mercait Croce to the said Tolbuith of Edinburghe, thair to remane quhill ane schip be in reddines to transport him. Quhilk was pronuncet for dome.²

Cruel Oppression — Murder.

Nov. 5.—WILLIAME BONAR, in Condry.

Dilaitit, accuset and persewit be Dittay following, viz. FORSAMEKILL as he, in the moneth of October, the yeir of God I^m.Vj^c. and fyve yeiris, haifing requyret Patrik Philp in Condry, his coitter,³ to geve him the lane⁴ of his horse, for leiding of certane his schorne peis, than standing stoukit⁵ vpone ane pairt of the saidis landis of Condrie, occupyt be him; lyk as, for satisfeing of the said Williames desyre, haifing directit his naig, with vmq^{le} Robert Quhyte, his servand, and ane sled,⁶ to the leiding of his peis. Trew it is, that the said Williame, vpone the . . . day of October, the yeir of God aboue writtin, at the said vmq^{le} Robertis cuning to the feildis, quhair the saidis peise war roukit,⁷ becaus the said Robert refusit to tak on sic extraordinar burding as the said naig was vnhable to draw, he thairfoir maist prouddie and contemptiounlie lousit his belt, and with the bukillis and remanent irnes thairof, maist crewallie strak the said vmq^{le} Ro-

¹ Chained. ² *Sept. 27, 1607.*—A Preist, who had been a certaine time in ward before, in the Tolbuith of Edinburgh, was brought down, on the mercat day, to the Mercat-croce, with all his Mefse-cloaths upon him, wherewith he was taken, with his chalice in his hand. He layed at the Croce from ten hours till twelve. Then all his Mafse-cloathes and chalice were burnt in a fire beside the Croce, and himself carried backe to ward.—*Calderwood's MS. Church History.* ³ Cottar.

⁴ Loan. ⁵ Put up in *stouks* or shocks, to *win* or cure. ⁶ Sledge, a sort of cart without wheels, still in use, in mountainous districts, for leading in meadow hay, turf, &c. ⁷ Put up in racks, *ricks*.

bert in the heid and face, and with his feit and kneis strak him in his breift, bellie and fydis, and brak his haill intrallis within him : And thaireftir, schot¹ him fra him down ane watter-bra,² quhair he fell in ane watter, and remanit bleiding thairin ane grit space thaireftir, at mouth and neife ; be occasioun of the quhilkis crewall woundis and straikis, gevin to the said vmq^{le} Robert, he immediatlie thaireftir tuik bed, quhairin he continewit bedfast, in grit dollour and diseafe, be the space of tuentie dayis thairefter, or thairby ; and at last, vpone the . . . day of November thaireftir, he depairtit this lyfe, of the saidis hurtis and woundis ; and sa, he was maist crewallie flane be the said Williame Bonar : And he is airt and pairt thairof ; committit vpone set purpois, prouision and foirthocht felonie.

VERDICT. The Assyse, be the mouth of Williame Birsoun in Clow, stand, pronuncet and declarit, all in ane voce, the said Williame Bonar to be Clenget, innocent and acquit of the cryme aboue writtin, and haill circumstances thairof. Quhairvpoun the said Williame askit instrumentis.

Slaughter — Shooting of Hagbuts and Pistolets.

Nov. 6.—JOHNE FORBES, brother to Williame Forbes of Corfindae.

Dilaitit of airt and pairt of the Slaughter of vmq^{le} Williame Broun, seruant to Johne Irwing of Ardtanfurd, committit be him and his complices, callit ‘ THE COMPANIE AND SOCIETIE OF THE BOYS,’ vpone the landis callit the Peill of Lumfannen, in the moneth of November, the yeir of God I^m.Vj^c. and fyve yeiris. ITEM, for airt and pairt of the Slaughter of vmq^{le} Robert Merfar in Tombeg, committit be him and his complices foirsaidis, in the moneth of Junij lastbypast, at Magnus Garioches hous, in Drumnahoy. AND last, for contravening of our fouerane lordis Actis of Parliament, in beiring and weiring of hagbuttis and pistolettis, daylie and continuallie, this thre yeir bygane ; speciallie, for inuaiding and persewing of Williame Irwing, brother to the Laird of Drum, and schuiting of ane pistolet at him, betuix his awin duelling hous and the Kirk of Kyncairdin, in the moneth of July or thairby, I^m.Vj^c. and sax yeiris.

PERSEWAR, Sir Thomas Hammiltoun.

PRELOCUTOR in defence, Mr Johne Russell.

The Aduocat produceit the Dittay aganis Johne Forbes, with the Letteris of Hoirning, and desyrit proces.—Mr Johne Russell producet ane Letter of Relaxatioune, be the quhilk he is relaxit fra the horne, for the crymis contenit in the Dittay, and thairupoun askit instrumentis.—The pannell takis instrumentis that na partie insistis in the persute of this Dittay, except my lord Aduocat. It is allegit, that na proces can be led in this matter, becaus he aucht to be summond vpoun xv dayis wairning, seing he is the Kingis frie subiect ; and for instruct-

¹ Forcibly pushed, *shoved*.

² A brae or sloping bank above a stream.

ing thair of, citit the practik betuix the Montgomeries and Cuninghame, and the vther of Newarkis.—It is anfuerit, aucht to be repellit, in respect of the Relaxationne producet, beiring the pannell to haif bene at the horne of befoir, for the crymes contenit in the Dittay ; vpoun the quhilk Hoirniug Commiffiounne was direct to apprehend the pannell, rebell and at the horne ; and being apprehendit, is brocht fra the waird to the bar ; and thairfoir, na delay aucht to be grantit vpoun xv dayis.

THE Justice findis proces, nochtwithstanding of the Alledgeance : Quhairvpone the Aduocat takis instrumentis.

It is alledgit be the pannell, that the Justice can nocht proceed in the mater aganis *Johne Forbes*, for the crymes contenit in the Dittay ; becaus, be Act of Secreit Counfall, my Lord Forbes wes maid Justice to pronounce dome (of) Baneifment aganis the said Johne ; quho hes pronounceit the said Dome, in ane Justice Court, hauldin be him ; and gif he hes nocht pronounceit the said dome, the said Johne offerit him to be Baneift, and to find cautionn, actit in the Buikis of Adiornall, to pass aff the countrey, vnder sic panis (as) the Justice will modifie ; and thairfoir na proces : And for verificatioun thair of, produceit the Act of Counfall ; and eikis,¹ that he was tane before the expyring of the tyme appointit to his baneifment. The Aduocat anfuerit, that the Act of Counfall can nocht stay proces ; feing that (there) is na thing produceit, declaring him to be exilit ; nather yit is the Dome pronounceit : And siclyke, the said Johne mau² be putt to ane Assyse, except he can schaw Respett, Remiffioun or clangeing ; and alse, the Aduocat acceptis the Secreit Counfallis ordinance.

It is allegeit, that the pannell can nocht be putt to ane Assyse for *Merfar*, feing he wes ordanit to be Baneift for Brounis Slauchter ; and thairfoir the Sentence and dome of Baneifment standing, he can nocht be put to ane Assyse for *Merfar*. It is anfuerit be the Aduocat, the Argument makis him nocht lauchfull to slae in Junij, he being baneift in March. ITEM, it is allegeit that na proces for *Merfaris* slauchter, becaus he wes nocht apprehendit for the samin. It is anfuerit, he wes att the Horne for the Slauchter, and he may be challengeit for the samin ; and produceit the Hoirning.—The Commiffiounn of apprehensionne being produceit, it is alledgeit, that Commiffiounn fallis, in respect of Assythemment, and ane Act, makeand Arthour Lord Forbes Justice, to pronounce dome of Baneifment. It is anfuerit be the Aduocat, that the caus of the Commiffiounn wes rebelloun, quhilk wes nocht purget, quhill eftir his taking.

THE Justice findis proces, nochtwithstanding of the pannellis fyrst alledgeance maid, that Brounis Slauchter fould nocht be put to ane Assyse.

It is allegeit, of new, that gif ye will pitt the mater to ane Assyse, and be

¹ Adds farther, subjoins.

² Must.

convict, ye can nocht pronounce na forder Dome nor¹ according to the Act of Counfall. It is alleget for the Slauchter of Merfar and weiring of pistoletis, he can nocht be putt to ane Assyse, feing he wes nocht tane for that cryme; and that wes nocht *in rerum natura* quhen the Commiffioun wes grantit. It is anfuert, that the pannell wes summond vponn xv dayis warning, for the saidis crymes; and being in waird, he may be brocht out and put to ane Assyse. And the Aduocat produceit the Hoirning aganis the pannell for the Slauchter of Merfar.—The Letteris (of Hoirning being) produceit, it is alleget that the famin s null, becaus the said Johnne Forbes is summond only att the mercat croce of Abirdene. The Aduocat anfuert, that he aucht (to) reduce; and the Justice is nocht Judge to the nulling² of Hoirningis.

THE Justice Ordanis the mater to be putt to ane Inqueist, nochtwithstanding of the allegeances.—The pannell offeris him felf in his Maiesteis Will, for the weiring and schuiting of pistolettis.

ASSISA.

James Cunningham, father-brother to the Laird of Barnis, James Dikfoun of Hirdrig, Andro Abircrumbie of Straruthie, Williame Sydferff of Ruchlaw, Johnne Airmour, mercheand burges of Edr.³

The Aduocat, for verificatioun of the Dittay, produceit twa Letteris of Hoirning, and the said Johnne Forbessis Depositionis, confessing the crymes contenit in the Dittay.—It is allegit aganis *Harie Skirving*,⁴ that he can nocht be ressaunt on this Assyse, becaus thair is feid⁵ standing betuix the Laird of Drum, on the ane pairt, and the name of Forbes, on the vther pairt; and the Erle of Marshell, to quhom this Assyfour is vassall, is sister-bairnes to the Laird of Drum. It is anfuert, aucht to be repellit; in respect of the Act of Parliament discharging all feidis; and that thair is na deidlie feid qualifeit betuix the Erle Marshell and this pannell.—The pannell, eftir reiding of the Dittay, denyis the Slauchter of Robert Merfar, or that he was ather airt or pairt thairof.—The Aduocat repeittis to the Assyse the pannellis Confessioun, with the Letteris of Hoirning for the crymes contenit in the Dittay and Act of Counfall. The Aduocat protestis for Wilfull Error aganis the Assyse, in cais thay acquit; and that the Assyse be reteanit in the Tolbuth, quhill the Kingis Maiestie and his Counfallis will be knawin.—The pannell takis instrumentis of the Assyses determinatioun, in Clengeing of the pannell, for the Slauchter of Broun; and desyres the Justice to be advyset with the Counfall, anent the dome, in respect of the Act of Counfall, producet be him in this proces.

VERDICT. Eftir accusatioun of the said Johnne Forbes, be Dittay, of the hail crymes abone writtin, and verificatioun thairof, be his Depositiones, sub-

¹ Than.

² Annulling, reducing.

³ The remainder of the Assise composed of 'mercheandis.'

⁴ Of that ilk.

⁵ Feud, deadly enmity.

feryuit with his hand, as also fuferyuit be my Lord Halyrudhous and Mr Johnne Prestoun, Collectour, producet be my Lord Aduocat, togidder with the Letteris of Hoirning, &c., the Affyse, be pluralitie of voittis, be the mouth of the faid Williame Sydsfer of Ruchlaw, chancellor, ffand, pronuncet and declairit the faid Johune to be Clene, innocent and acquit of airt and pairt of the Slauchter of the faid vmq^{le} Robert Merfar : AND ffand, pronuncet and declairit, be pluralitie of voittis, the faid Johnne to be ffylit, culpabill and convict of airt and pairt of the flauchter of the faid vmq^{le} Williame Broun ; and for beiring, weiring and fehuiting of pistolettis, contrair the tennour of the Actis of Parliament. And that, in respect of his awin Depositiones and Confessioun producet, fuferyuit with his hand.

SENTENCE. For the quhilk caufe, the faid Justice-depute decernit and adindget the faid Johnne Forbes, be the mouth of James Henderfoun, dempfter, to be tane to the mercait Croce of Edinburgh, and thair, vpone ane scaffold, his heid to be ftrukin frome his body ; and all his moveabill guidis to be efcheit and inbrocht to his hienes vfe, as convict of the crymes aboue-writtin : Quhilk wes pronuncet for dome.

Sorcery — Witchcraft — Incantation — Poisoning, &c.

[THE singularity of the following Trial cannot fail to be remarked by all who have bestowed any attention upon the history of the Superstitions of their native country. In illustration of several of the circumstances detailed, the Editor considers that the CONFESSIONS of ISSOBELL HALDANE, preserved amongst the Warrants of the Privy Council of Scotland, will prove an acceptable accompaniment. The Editor has not yet discovered whether that unfortunate woman suffered the usual death which awaited such a Confession. It is, however, but too probable that she was put to death, by being ‘ brunt,’ at Perth, in terms of her own Depositions.]

Dec. 18.—BARTIE PATERSOUN, tasker in Newbottill.

Dilaitit of the cryme of Sorcerie and Witchcraft, in abuseing of the peopill with charmes and dyuerse foirtes of Inchantmentis ; and ministring, vnder forme of medecine, of poyfoneable drinkis : AND of airt and pairt of the Murthour of Johnne Myller in ffurd-mylne, about Martinus last, and of vmq^{le} Elizabeth Robiefoune, be the faidis poyfonable drinkis, viz. For cureing of James Broun in Turnydykis of ane vnknawin difeafe, be ministrating to him of drinkis, rubbing him with sawis¹ maid of dyuerse grene herbis, and caufing him pas hame to his awin hous : and at his bed fyde to sitt down on his kneis, thre fenerall nychtis, and everie nycht, thryfe nyne tymes, *to ask his helth at all leving wichtis, aboue*

¹ Salves.

and vnder the earth, in the name of Jesus. And thaireftir, ordanit the said James to tak nyne pickillis of quheit, nyne pickillis of falt and nyne peeces of rowne-trie,¹ and to were thame continuallie vpone him, for his helth ; committing thairby manifest Sorcerie and Witchcraft. ITEM, for abuseing of the people, with ane certane watter, brocht be him furth of the Loch callit the Dow-Loche, besyde Drumlanrig, and cureing of his awin bairne with the said Loche watter, be wasching of the said bairne, at everie nuke thairof, thryse ; and casting in of the bairnis fark² in the said Loche, and leveing of the fark behind him ; affirming, that gif any fould come furth of the Loche, at that tyme, the patient wald convalesce, and gif na thing appeirit to him, the patient wald die : AND for cayreing of the said Loche watter to findrie of the cuntrie, that war visseit with feiknes, or quhais beftis war feik or foirspokin :³ Speciallie, for the ministrating thairof to Alexander Clerk, in Creichtoun, for his helth ; be causing him, at ilk tyme quhan he listit the stoupe,⁴ quhairin it was, to spaik thir woirdis : ‘ *I lift this watter, in the name of the Father, Sone and Haly Gaisi, to do guid for thair helth for quhom it is listit ;*’ quhilkis wordis fould be repeatit thryse nyne tymes. AND for vseing of thir charmes following, for charmeling of cattell ; ‘ *I CHARME thé for arrow-schot, for dor-schot, for wondo-schot, for ey-schot, for tung-schote, for lever-schote, for lung-schote, for hert-schot, all the maist, in the name of the Father, the Sone and Haly Gaisi. AMEN.*’ AND for behaifing him self as ane cownone Sorcerer, in abuseing of our fouerane lordis leigis, thir diuerse yeiris bygane, be his devillische practizes, vpone dyuerse feik folk and feik bestiall ; and vseing of dyuerse vther soirtis of Inchantment, expres aganis the lawis of God and Actis of Parliament.

As at lenth is contenit in the said Barteis Depositiones, maid in presens of the Presbiterie of Dalkeith, and Dittay formet thairupoune.

VERDICT. The Assyfe, be the mouth of Thomas Megget of Maistertoun, chancellor, stand, pronuncet and declairit the said Bartie to be flylet, culpable and convict (conforme to his awin Confessioun) of the haill crymes aboue writtin.

SENTENCE. To be tane to the Castell-hill of Edinburghe, and thair to be wirreit at ane staik, quhill he be deid ; and thaireftir his body to be brunt in asches ; and all his moveable guidis and geir, gif he ony hes, to be escheit and inbrocht to his hienes vse, &c.

¹ The mountain-ash. Its virtues are even yet held in great repute, as a charm against Witchcraft, &c.

² Shirt. The purpose of so doing was to leave the disease on the shirt, and to make an offering to the *genius loci*. In Ireland, at this day, ‘Holy Wells’ are commonly resorted to by the sick, &c., who, after ablution and drinking of the spring, leave pins and pieces of rag, torn off some part of the patient’s dress.

³ Bewitched, charmed.

⁴ A sort of wooden bucket or pitcher, used for holding or carrying water.

DEPOSITIONES of ISSOBELL HALDANE, *suspect of* WISCHCRAFT,
 CONFESSIT *be hir the 15 of Maij 1623, as followis.*

BEING convenit befor the Sessioun of Perth, eftir prayeris maid to God to oppin hir hairt and loufe hir tounge to Confes the treuth :—Being askit, ‘ Gif scho hed onye skeill of cureing men, wemen or bairneis that war diseist?’ Scho anfuerit, that scho had nane. Being requirit, ‘ Gif scho cureit Andro Duncanes bairne?’ Anfuerit, that, according to the directioun of Jonat Kaw, scho went with Alexander Lokart dwyn¹ to the Turret-Port, tuik watter frome thence, being dwyn; brocht it to Andro Duncanes house; and thair, wpone hir kneis, in the name of the Father, Sone and Halye Gooft, weusch² the bairne! Eftir that, tuik the watter, with the bairneis fark, accompaneit with Alexander Lokart, and knist³ baith in the burne; bot in the going, scho skaillit⁴ fwm, quhilk scho rewis ane evill rew,⁵ becaus that if onye hed gone ower it, thay hed gottyn the ill.⁶ ITEM, being askit ‘ If scho hed ony conversatioun with the flarye-folk?’ Anfuerit, that ten yeiris syne, lying in hir bed, scho wes taikin furth, quhiddir be God or the Denill scho knawis nocht; wes caryit to ane hill-syde: the hill oppynit, and scho enterit in. Thair scho slayit thrie dayis, viz. fra Thursday till Sunday at xij houris. Scho mett a man with ane gray beird, quha brocht hir furth agane.

ITEM, that same day JOHNE ROCH deponit, that about that same tyme, he beand in James Chrystie the wrichtis buith, causing the wricht mak ane cradill to him, becaus his wyff wes neir the down-lying; the said Issobell Haldane com by, desyret him nocht to be sa haistie, for he neidit nocht; his wyff sould nocht be licht⁷ till that tyme fywe onkis,⁸ and then, the bairne suld neuer ly in the cradill, bot be borne, bapteist, and never souk, bot die and be tane away. And as the said Issobell spak, so it cam to pass, in euerie poynt.

THE said Issobell being demandit, ‘ How scho knew that?’ Anfuerit, that the man with the gray beird⁹ tauld hir. ITEM, the said Johnne Roch deponit, that Margaret Buchannan, spous to David Rind, being in helth, at hir ordinar wark, the said Issobell Haldane come to hir, and desyreit hir mak hir for deith;¹⁰ ffor befor Fastings-ewin, quhilk wes within few dayis, scho suld be taikin away. And as scho said, so it wes; befor that terme the woman died. Being askit, ‘ How scho knew the terme of hir lyfe?’ The said Issobell anfuerit, scho hed speirit at that same man with the gray beird, and he hed tauld hir.

THE *xvj day of May 1623*. PATRIK RUTHUEN, skynner in Perth, compeirit and declairit, that he being wischt¹¹ be Margaret Hornisclench, Issobell Haldane com to sie him; scho com in to the bed and straucht¹² hir self aboue him, hir heid to his heid, hir handis ower him, and so furth, mumbling sum wordis; he knew nocht quhat they war.

THE said Issobell Confessit the said cure; and deponit, that befor the said Patrik wes wischt, scho mett him, and foirbad him to go till scho had gone with him.

THE *xix day of Maij 1623*. COMPEIRIT STEPHANE RAY in Marettoune, and deponit, that thrie yeiris syne, that Issobell Haldane haueing stollin sum bere furth of the Hall of Balhouslie, he followit hir, and brocht hir bak agane; scho chaipit¹³ him on the schulder, saying, ‘ Go thy way! Thow sall nocht win thy self ane bannok of breid for yeir and day!’ And as scho threttinit, sa it cam to pas. He dwynnit,¹⁴ hanelie diseist.

THE said Issobell Confessis the away-taking of the bere, the diseist of the man, and affirms, that onlye scho said, ‘ He that delyneret me frome the flarye-folk sall tak amendis (on) thé!’ ITEM, the same day scho confest scho maid thrie fenerall caikis, euerie ane of thame of ix curneis¹⁵ of meill, gottin fra ix wemen that wer maryit madynnis; maid ane hoill in the crowne of euerie ane of theme, and

¹ Down. ² Washed. ³ Cast, threw. ⁴ Spilt some. ⁵ Regrets or *rues* bitterly. ⁶ Had any one stepped over the place, the evil or disease would have been transferred from the sick child to him. ⁷ Lighter, i. e. delivered of her child. ⁸ Five weeks. ⁹ This familiar spirit seems to be the same as ‘ *Thom Reid*,’ mentioned in the extraordinary Trial of *BESSIE DUNLOP*. ¹⁰ Prepare for death. ¹¹ Bewitched, *fore-spoken*.
¹² Stretched. ¹³ Clapped. ¹⁴ Pined away, without any apparent cause. ¹⁵ Handfuls, small quantities.

pat ane bairne throw it thrie tymeis, 'in the name of the Father, Sone and Halye Goost,' to wemen that pat the saidis bairnes thryfe throw bakward, wfeing the saidis wordis. ITEM, the said Iffobell confest, that scho went, silent, to the Well of Ruthuen,¹ and returneit silent, bringing watter from thence, to wasch Johne Gowis bairne: Quhen scho tuik the watter frome the Well, scho left ane pairt of the bairnes fark at it, quhilke scho tuik with hir for that effect; and quhen scho cam home, scho weufche the bairne thairwith. In lyk maner, scho Confest, scho had done the elyk to Johne Powryis bairne.

THE xxvij day of Maij 1623. THE said Iffobell confessit, that scho had gewin drinkis to cure bairneis; amongis the rest, that David Moreise wyff com to hir, and thryfe for Goddis faik askit help to hir bairne that wes ane scharge:² And scho send furth hir sone to gether fochsterrie leaweis,³ quhair-of scho directit the bairnes mother to mak a drink.—Bot the bairneis mother deponit, that the said Iffobell Haldane, on-requirat, cam to her house and saw the bairne; said, 'it wes ane scharge taikin away,' tuke on hand to cure it; and to that effect, gaiff the barne a drink; efter the reslait quhairof the bairne died.

WILLIAME YOUNG, Scribe to pe Presbiterie of Perth, at command of pe samyne, with my hand.

JONAT. DAUIDSONE, Notare Publict and Clerk to the Sessioun of Perth, at thair command and directione, with my hand.

[*Mr William Boirthuik, Justice-Depute.*]

Slaughter.

Feb. 3.—JAMES MURE, Younger of Auchindrane.⁴

Dilaitit of airt and pairt of the Slauchter of vmq^{le} Sir Thomas Kennedyie of Cullane and Williame Dalrumpill.

PERSEWER, Sir Thomas Hammiltoun of Bynnie, knycht.

PRELOCUTORIS for the pannell.

The Lairdis of Blair, Cauldwall, Heiffilheid, Rowallane, Mr Johnne Ruffell, Mr Laurence M^cgill.

My Lord Aduocat producet the Letteris deulie execute and indorfat, quhairby the defenderis thairin contenit ar denuncet to the horne. Mr Johnne Ruffell producet Letteris of Relaxatione, of the dait the thrid of Februlare instant; be the quhilkis the pannell is relaxit for the crymes aboue writtin. The pannell takis instrumentis of his entrie; and efter reiding of the Summondis, offeris him self reddie to abyd the tryell of the Law, for the crymes contenit thairin-till; and disassentis fra all continewatione. The Aduocat producet the Coun-fallis Warrant for continuatioun of this dyet to Fryday nixt; and committing the pannell to waird in the meane tyme.

THE JUSTICE, for obedience of the Counfallis Warrant, continewis this matter to Fryday nixt, and ordanit the pannell to be wairdit in the Tolbuith of Edinburgh, in the meane tyme.

¹ The superstition of fetching water from *Holy-Wells*, as they were and still are often called, was very prevalent in Scotland, as well as in all Catholic countries. Some shred of dress belonging to the diseased person was left on the brink of the well, in token of the disease having passed away along with it. In Ireland, the bushes near to such wells are entirely covered with rags of every colour, as offerings to the *Genius loci*.

² SHARG, a creature pined away, by Witchcraft, an evil eye, &c. A changeling.

³ Leaves of an herb. Perhaps star-grass, bog-star-grass.

⁴ Vid. Jul. 17, 1611.

[*Mr Williame Hairt, Justice-Depute.*]

Feb. 5.—THE JUSTICE continewis this matter to the secund day of Marche nixtocum; and ordanis the pannell to be wairdit in the Tolbuith, in the meane tyme.¹

Slaughter.

Feb. 5.—GEORGE MURRAY of Brochtoune.

Dilaitit of airt and pairt of the Slauchter of vmq^{le} James M^cCulloche, appeir- and of Torhouse; committit in November last.

PERSEWARIS.

Johnne M^cculloche, as brother; William M^cculloche of Mertoune, Thomas M^cculloche of Barholme.

THE JUSTICE continewis this matter to the morne.²

Feb. 6.—The persewaris passis fra the perfute of the Laird of Brochtoun for the said Slauchter, conforme to the cowmoning.³

Mutilation.

Feb. 19.—JOHNNE DUNCANE, elder, myller in the Brig of Hailes, and Johnne Duncane, younger, meilmaker in Edinburgh.

VERDICT. Fylit, culpable and convict of airt and pairt of the Mutilatioun of Robert Daidfoun of tua fingaris of his left hand; committit be thame in the moneth of September I^m.Vj^c. and fax yeiris, vpone fet purpois, prouifoun and foirthocht felonie.

SENTENCE. To be wairdit within the Tolbuth of Edinburgh, thairin to remane vpone thair awin expenffis, ay and quhill thay haif satisfeit the said Robert Daidfoun, pairtie, for his hurt and skayth aboue writtin, and obtene his letteris of Slanes thairupoune: And alse, Ordanit thair haill moveabill guidis to be efcheit to our fouerane lordis v^{le}, as convict of the said cryme.

Slaughter.

Feb. 23.—WILLIAME KEITH, sone lauchfull to Alexander Keith of Auchquhirfk.

Dilaitit, accuset and persewit be Mr Thomas Henderfone, Aduocat, substitute to our fouerane lordis Aduocat, of the crymes following, viz. sforfamekill as, vpone fryday the nyntene day of ffebruar instant, the said Williame haifing fallin out, in som iniurious speiches with vmq^{le} Thomas Colstoun, Inglifinan, at the drink, in Griffell Ruffellis hous in Bruntieland; he thaireftir rauncounterit with the said vmq^{le} Thomas, befyde the schoir of the said burch of Bruntieland;

¹ It is again continued; and Mure ordered to be kept in ward. ² Plegio, Johanne Vaufe de Barnebarroche. ³ Commoning. It is likely that the private parties compromised the matter, and that Letters of Remission were procured upon their joint application, on producing Letters of Slains.

and thair, maist crewallie, with his drawin swoird, strak the said vmq^{le} Thomas vnder the left pape, and slew him thairwith: And the said William is airt and pairt of the slauchter of the said vmq^{le} Thomas.

PERSEWERIS, Mr Thomas Henderfonne, Mr Robert Foullis, aduocat.

PRELOCUTOR for the pannell, Mr Johnne Russell.

ASSISA.

Aulay Mcanlay of Ardincapill,	Arch ^d Edmestone of Ballintone,	Hew Dalzell, merchand burges of
George Murray of Brochtoun, ¹	Johnne Ahannay, Provost of	Edinburgh,
James Lokhart of Ley,	Wigtoun,	Symone Brentoune, burges thair,
William Blair of Balgillo,	Patrik Somervell, merchand	George Redik,
. . . . Leith of Harthill,	burgess of Edinburgh,	Geo. Rollok, portioner of Craigie,
Sir Alex ^r Colquhoun of Lufs, knyt,	Donald Thornetoun, burges thair,	Vthreid M ^c dowell of Mondurk.

VERDICT. The Assyse, be the mouth of the said Vthreid M^cdowgall of Mondurk, chancellor, fand, pronuncet and declairit the said William Keith to be ffylit, culpable and convict of airt and pairt of the Slauchter of the said vmq^{le} Thomas Colstoun; committit in maner and at the tyme specifeit in the said Dittay.

SENTENCE. To be takin to the mercait croce of Edinburgh, and thair, vpone ane skaffold, his heid to be strukin frome his body; and all his moveabill guidis and geir to be efcheit and inbrocht to his Maiesteis vse, as convict of the said cryme. Quhillk was pronuncet for dome.

Child-murder.

Feb. 24.—ISSOBELL THOMESOUNE, dochter to Robert Thomesoun in the Watter of Leyth.

Dilaitit of the crewall and vnnaturall Murthour and distruction of hir awin infant bairne; committit be hir, immediatlie eftir hir delyuerie thair of, vpone the aucht day of Februare instant, secretlie, within hir fatheris dwelling hous in the Watter of Leyth.

VERDICT. The Assyse, in ane voce, be the mouth of Thomas Clerksoun, buterman, chancellor, fand, pronuncat and declairit the said Issobell, conforme to hir awin Confessioun, to be ffylet, culpable and convict of the crewall Murthour and distruction of the said bairn.

SENTENCE. To be tane to the Castell-hill of Edinburgh, and thair to be hangit, quhill scho be deid; and hir haill moveabill guidis, gif scho ony hes, to be efcheit, &c.

Treason — Murder under Trust, &c.

Mar. 2.—JAMES WATSOUN, sone in law to James Hammiltoun of Scheirell; and James Hinchelwoid, seruitour to James Hammiltoun Younger of Spittelcheill.

Dilaitit of airt and pairt, red, counfall and foirknowledge of the crewal Mur-

¹ See Feb. 5, 1508.

thour of vmq^{le} George Tuedie; committit be the said James Hammiltoun of Spittelcheill, vpon Sanct Leonardis-evin, in Nouember last, within ane barne of Spittelcheill; the said James, the tyme of the committing thair of, haifing consultit and devyset the samyn with Robert Craufurd, his guid-brother, and with the saidis James Watfoun and James Hinchelwoid, of the forme and maner thair of, viz. THAT the said James Hinchelwoid sould secreteilie convoy ane mell¹ in the barne, quhair the said George Tuedie sould be murthourit; and that the said George (his) bed sould be maid in the said barne, and the said James Watfoun to ly with him: LYK AS, about tuelf houris at evin, in the said nycht, the said vmq^{le} George Tuedie being lyne down in his bed, within the said barne, luiking for the said James Watfounes cuming to ly down with him, the said James Hinchelwoid, James Hammiltoun and James Watfoun come all in togidder within the said barne; and as the said James Watfoun was taking af his claithes, the said James Hammiltoun, with the said mell in his hand, in prefens of the said James Watfoun and James Hinchelwoid, come to the said George Tuedeis bedheid, and thair maist crewallie gaif him tua grit straikis in his heid, and Murtherit him thairby; the said James Hinchelwoid haifing brocht in the candill in his hand, and delynering the mell to the said James Hammiltoun, to commit the said Murthour; AND eftir the committing thair of, the said James Watfoun, taking away with him the said vmq^{le} George Tuedeis horse, with the sadill and brydill, and the said James Hinchelwoid helping the said James Hammiltoun to beir him to ane lyme hoill, ane littill frome the hous, quhair he wes bureit.

VERDICT. The Assyse electit and choisit Hammiltoun of Sillertounhill² chancellor, ressonit and voittit vpon the poyntis of the said Dittay, and being ryplie and at lenth advyset thairwith, togidder with the saidis James Watfoun and James Hinchelwoidis Depositiones made be thame in the premisses; thay, be the mouth of the said Chancellor, stand, pronuncet and declairit the saidis James Watfoun and James Hinchelwoid to be ffylet, culpable and convict of airt, pairt, red, counsal and foirknowledge of the said abhominable Murthour, and conceilling of the samyn, sa lang eftir the committing thair of.

SENTENCE. To be tane to the Castell-hill of Edinburgh, and thair to be hangit quhill thay be deid; and all thair moveabill guidis escheit to our souerane lordis vsé, as convict of the saidis crymes.

Cattle-stealing.

Mar. 11.—THOMAS FRAM, sumtyme fervand to James Hammiltoun of Spittelscheill.

Dilaitit of airt and pairt of the thiftious Steilling, conceilling, ressetting and

¹ Mallet. ² Robert Bailzie of Jerristoun, Johnne Grahame brother to Wastraw, and James Mureheid younger of Lachope, are the only other landed persons. James Levingstoun of Jeriswoid was fined 100 merks for non-appearance.

away-taking of thre oxin and ane kow pertening to James, Lord of Balmirrinloch, furth of his landis of Mulruun; committit in the moneth of August I^m.Vj^c. and fax yeiris.—VERDICT. Guilty. James Levinstoun of Jerifwoid, chancellor.

SENTENCE. To be tane to the mercait croce of Edinburgh, and thair to be hangit quhill he be deid; and all his moveabill guidis, gif he ony hes, to be confiscat to our fouerane lordis vfe.

[*Mr Williame Borthuik, Justice-Depute.*]

Murder.

Mar. 18.—JOHNNE SWAN, burges of Dumbar.

PERSEWERIS, Williame Clerkfoune, brother-fone, Johnne Kellie, sifter-fone, Johnne Learmonth, guid-fone, Williame Ruthven also fone-in-law.

Dilaitit of airt and pairt of the crewall Murthour and Slauchter of vmq^{le} George Clarkfoune, merchand burges of Dumbar; committit be him within the said vmq^{le} George awin barne, lyand at the bak of the tounce of Dumbar, vpone the fyftene day of Marche instant, betuix thre and foure eftir none; be geving to him of ane crewall and deidlie straik vpone the left syde of his heid, alangis his vane-organe,¹ with ane grit fork, quhairof he immediatlie depairtit this lyfe.

VERDICT. Guilty. Johnne Kellie, elder in Dumbar, chancellor.

SENTENCE. To be takin to the mercait croce of Edinburgh, and thair his heid to be strukin frome his bodie; and all his moveabill guidis to be escheit and inbrocht to his hienes vfe, as culpable and convict of the said cryme.

[*Mr Williame Haint, Justice-Depute.*]

Sorcerie, Witchcraft, &c.

Maij 27.—BEIGIS TOD, in Lang-Nydrie.

Dilaitit, accuset and perfewit, at the instance of Mr Robert Foulis, Aduocat, substitute to our fouerane lordis Aduocat, of the crymes of Sorcerie following, viz. FORSAMEKILL as scho, accompaneit with vmq^{le} Cristiane Tod, hir sifter, Johnne Graymeill, Margaret Dwne and Ersche Marioun,² in the moneth of August, the yeir of God I^m.V^c. four scoir fourtene yeiris,³ convenit thame selffis, with thair complices, all Witches and abusfearis of the people, at Deane-fute of Lang-Nydrie, quhair the Deuill appeirit to thame, and reprovet the said Beigis Tod verrie scherplie, for hir lang tayreing; to quhome scho maid this ansuer, 'Sir, I could wyn na foner!' And immediatlie thaireftir, thay past altogidder to the said Beigis hous in Lang-Nydrie; quhair, eftir thay had drukkin togidder a certane space, thay, in thair devillische maner, tuik ane katt, and drew the samyn nyne tymes throw the said Beigis cruik;⁴ and thaireftir come with all thair speid to

¹ Jugular vein.

² Irish or Highland Marion, a personage who figured in the Witch Trials of that period.

³ A.D. 1594.

⁴ Of iron, on which the 'kail-pat' is usually hung over the fire.

Seaton-thorne,¹ be-north the 3et;² quhair the Devill callit for the said Cristiane Tod, and past to Robert Smartis hous, and brocht hir out; and as scho was cumand with him, scho tuik ane grit fray,³ and said to the Devill, ‘ Sir, quhat will ye do with me?’ Quha answert her, ‘ Tak na feir, for 3e fall gang to 3our sifter Beigis, and to be rest of hir cumpanie, quha ar stayand vpon 3our cuning at the Thorne!’ And thay theireftir past altogidder, with the Devill, to the irne 3et of Seatoun, quhair of new thay tuik ane cat, and drew the samyn nyne tymes throw the said Irne-3ett: And immediatlie thaireftir, come to the barne, foiranent George Feudaris dur,⁴ quhair thai cristenit the said catt, and callit hir *Margaret*: And thaireftir come all bak agane to the Deane-fute, quhair first thai convenit, and cuist the kat to the Devill. For the quhilkis devillische practizes the saidis Cristiane Tod, Johne Gray-meill, Ersehe Marioun and Margaret Dwne war convict and brunt. And the said Beigis Tod is airt and pairt of the cryme of Sorcerie and Witchcraft abone writtin; quhilk wes nottourlie knawin: ITEM, fforfamekill as the said Beigis Tod, haifing fallin furth at variance with the vnk^{le} Alexander Fairlie in Lang-Nydrie, scho, to be revendget vpon him and his bairnis, in the moneth of Junij I^m.V^c.lxxxvj yeiris, be hir Sorcerie and Witchcraft, cuist ane heavie and vnkawin seiknes vpon Alexander Fairlie, his sone, quha vanischet away⁵ with vehement fuciting and continuall burning at the heart; quhilk seiknes indurit with him the space of tua monethis, that nane luikit for his lyfe;⁶ and nichtlie the said Beigis appeirit to him, in hir awin similitude; vpon quhome he cryit continuallie for help: And in the day, scho appeirit to him, in schape of a dog; quhilk pat him almaist out of his witts: Vpon occasioun quhairof, the said Alexander, his father, past to the said Beigis Tod, and efter he was reconceillit to hir, maist earnistlie besocht hir to cum and remedie his sone of the said seiknes; quha refusit to cum; yit, at the eirnest desyre of Archibald Galloway, scho, accompaneit with hir tua sones, come to the hous, and sa sone as the said Alexander saw hir, he eftir that tyme became bettir and bettir, and convalescit of the said seiknes. And sa, scho committit manifest devilrie and Witchcraft, in on-laying and aftalking of seiknes, in maner foirsaid. AND lykwayes, was accuset be the said Aduocat and Robert Woid, litster, for the casting of the lyk vncouth seiknes vpon the said Robert, be hir devilrie and Witchcraft, in the moneth of Nouember last.

VERDICT. The Assyse, all in ane voce, be the mouth of David Seatoun, bailzie of Tranent, fflyet the said Beigis of the first tua poyntis of Dittay aboue writtin: And, be pluralitie of voittis, stand, pronuncet and declairit hir to be Cleene

¹ Thorns were favourite trysting-places of witches as well as lovers.
gate.

⁵ Fright. Old Fr. *frayeur*.

⁴ Door.

² To the north of the
³ Swooned, fainted away.

⁶ None

thought he could possibly survive.

and acquit of the Sorcerie and Witchcraft vset be hir aganis the said Robert Woid, in laying the said seiknes vpon him ; in maner specifeit in the Dittay.

SENTENCE. For the quhilkis tua crymes, quhairof she is convict, the Justice ordanit hir to be tane to the Castell-hill of Ed^r, and thair to be wirreit at ane staik, and her body to be brunt in asches ; and hir haill guidis to be escheit, &c.

[CURIA JUSTICIARIE *f. d. n. Regis, tenta in Pretorio de Lynlythgow, ultimo die Maij 1608, per M. Willielmum Hairt de Prestoun, Justiciarium Deputatum.*]

ASSESSOURIS TO THE JUSTICE.

My Lord of Balmirrienoeh,¹ My Lord Abercorne,² My Lord Lynlythgow,³ Sir Peter Young.⁴

Abstracting Pearls and Jewels belonging to the Queen.

May 31.—MARGARET HERTSYDE, spous to Johnne Buchannane, sumtyme fervand to his Maiestie, and the said Johnne Buchannane, for his entreis.⁵

Dilaittit, accuset and persewit be Sir Thomas Hammiltoun of Bynn timer, knycht, Aduocat to our souerane lord.

DITTAY against the Pannell.

MARGARET HERTSYDE, 5e ar indyttit and accuset, sforfamekill as 5e, being many 5eiris in credeit and service with oure souerane lordis darrest spous, the Queinis Maiestie, and haifing restait many grit benifeittis frome hir Maiestie, during pe tyme of 5our seruice, at dyuerse tymes, to 5our heich advancement, baith in credeit and welth : 5e, nochtwithstanding thair of, maist vnlawfullie and vndew-tiefullie substractit, staw and detenit frome hir Maiestie, furth of our souerane lordis Palices of in Ingland, at the leist furth of ane or vther of our saidis Palices, ane Perle, of the valour and pryce of ane hundreth and ten pund sterling, pertening to hir Maiestie ; togidder with dyuerse vtheris perles, precious stanes, jowallis and goldsmyth wark, lykwayis pertening to his Maiesteis darrest spous, worth the soweime of thre hundreth pund sterling ; committit be 5ow in the monethis of, the 5earis of God I^m. sax hundreth thre, sax hundreth foure, sax hundreth fyve, sax hundreth sax, and I^m.Vj^e. and seven 5eiris ; at pe leist in ane or vper of pe saidis monethis and 5eiris. For the quhilkis, 5e being sworne and examinat, first vpon the fyft day of October 1607, and pairestir vpon the thrid day of Nouember lastbypast, anent 3our vnlawfull haifing of findrie of hir Maiesteis jowellis ; and haveing declairit, vpon 5our grit aithe, that 5e had nane, and gif it war fund that 5e had ony vther jowallis of worth, quhilkis pertenit to hir Maiestie, that pe perticuleris than confessit be 5ow, (quhairin the jowallis lybellit war nocht comprehendit,) 5e acknowlegit that 5e had thame nocht lauchfullie : And lykwayis declairit, be 5our said Deposition, that at 5our first cuning frome Court to Scotland, 5e had delyuerit to hir Maiestie all pe jowallis quhairof 5e had pe credeit,⁶ and nevir senfyne had charge of pame, or mellit⁷ with ony of thame. NOCHTWITHSTANDING quhairof, 5e pairestir, vpon the said thrid day of Nouember last, Confessit that 5e had abstractit frome hir Maiestie ane grit perle, pertening to her hienes, quhilk cam to 5our handis, amangis ane number of counterfute stanes, and many perles pairwith : Quhilk grit perle, 5e fauld, for ane hundreth and ten pund sterling, estir that 5e had presentit the same, hung at ane dyamond, to be fauld, to hir Maiesteis self ; sfor the quhilk 5e cravet her Maiesteis pardoun, and

¹ For his interest ; only as husband to the pannell.

² Sir James Elphinston, first Lord Balmerinoch, Lord President of the Court of Session. See his Trial, Mar. 10, 1609.

³ James Hamilton, first Earl of Abercorn.

⁴ Alexander, seventh Lord Livingston, was created Earl of Linlithgow Lord Livingston and Calendar.

⁵ His

Majesty's ' Elimosinar' or Almoner, &c.

⁶ Trust, charge of.

⁷ Meddled, had to do with. Fr. *Meler*.

be your said Deposition cum in hir Maiefties gracious Will for it. And lykwayis Confessit, be your Deposition fairsaid, that, without hir Maiefties knowlege or gift, ze had fauld and convenit to your awin proffit and vse, vther precious stanes and perles, worth thre hundreth pund sterling, pertening to hir Maieftie; and acknowlegit pat your ouersicht and offence committit, in melling with the jowallis confessit be your at pat tyme, pat your in hir Maiefties Will: And ze ar airt and pairt of þe saidis crymes: for þe quhilkis ze aucht and fould be pwneifched, conforme to þe lawis and daylie practik of your realme.

PERSEWAR, Mr Thomas Hammiltoun of Bynnie, knycht, Aduocat to our fouerane lord.

PRELOCUTOURIS for the pannell, Mr Williame Oliphant, Mr Thomas Hoip, Mr Alexander King, Mr Johnne Russell, Aduocatis, Mr Robert Buchamane, Minister at the Kirk of Ceres, Mr Williame Buchamane, Minister at Methven.

The Aduocat producet our fouerane lordis Letteris, deulie execute and indorfate, purchest at his instance, as Aduocat to our fouerane lord, for his hienes entreis. The Aduocat, eftir cheifing of the prelocutouris for the pannell, producet his Maiefties Warrant to the Justice to proceed and minister Justice; togidder with ane vther Warrant, directit to my lord Aduocat, to insist in this persute.—Mr Johnne Russell, for him self and the rest of the prelocutouris, producet ane Warrant of the Lordis of Secreit Counfall, commanding thame to compeir, as prelocutouris, in defence of the pannell.

My lord Aduocat producet ane EIK to the *Dittay*, for cleiring thair of, and circumstances of the poyntis of Dittay contenit in the Letteris.

Margaret Hertfyde, *olim in carcere*, and now at libertie, producet ane Letter, containing ane desyre, ane Renociation and protestation, quhair of the tenuour followis.

I, MARGARET HERTSYDE, acknowleging my long captiuitie, and that I haif bene separat fra my husband, dyuerse tymes examinat and demandit vpone findrie wechtie matteris and articles, to the quhilkis I was forcet to ansuer, nocht being weil resolut, bot be þe contraire, being hevelie trubillit, be apprehensioun¹ of my husband, my self, wairding of our perfonis, and ceasing² vpone our haill guidis; my Depositionis nocht perfythle knawin to me, and I being ane woman, *juris ignara*, nocht haifing sa guid memorie as is requisat in sic ane wechtie caus; I desyre that now, being ane frie persone, exhibit in Judgment,³ my Declaratioun and Deposition may be producet, to the effect that I may reduce my self to ane perfyte memorie; and, gif my Declaratioun be set down according to þe treuth, I am content to abyde pairat; vtherwayis, in caice pair be any thing omittit or erroneoullie declairit, that I may be hard to correct my errour and eik⁴ pairto, quhatsoeur is omittit: And in cais of non production of my said Declaratioun and Depositiones, to the effect fairsaid, I, be þir presentis, revoikis quhatsumeur Deposition maid by me, concerning the lybell and Dittay pairin contenit, and haill contentis pair of: And protestis, in caice þe said Deposition be producet, at any time heireftir, in this Judgement, that þe samyn be oppinlie red in my presence, to the effect fairsaid.

The Pannell, vpone productionne of the Eik to the Aduocat, desyrit this matter to continew to the morne, to be advyfet thairupone. My Lord Aduocat declairis, that he vffis this Eik producet, as ane qualificatioun and explanatioun of the Summondis; bot intendis nocht thairby to challenge the persewar of ony new cryme; and thairfor desyrit present proces.

¹ Imprisonment.

² Seizing.

³ Presented in Court.

⁴ Add, subjoin.

THE JUSTICE and ASSESSOURIS continewis this mater to the morne, at viij houris; and hes delyuerit the Eik product to the Prelocutouris, to be advyfet thairnpoun.

OBJECTIONS *against the Assessors.*

(Jun. 1.)—It is allegit aganis *Sir Peter Young*, that he can nocht be Assessor in this cause, becaus he is his Maiestie's domestik seruitor; and Margaret Hertfyde being callit in this Judgement for steilling and substracting of Jowellis pertening to hir Maiestie, quhilk also pertenis to his Maiestie, na domestik seruitor to his Maiestie can be Judge or Assessor in this cause.—To the quhilk it is ansuerit, be the Aduocat, the allegiance is nocht relevant; becaus it hes bene practikket¹ in this Judgement, of befor, that his Maiestie's seruandis and domestikis hes bene admittit vpon Assyses: speciallie, the praktik of Barbara Naper² and Mr Thomas Cranstoun and George Craigengelt.³

It is allegit aganis *my Lord of Lynlythgow*, that he can nocht be Assessor, becaus his Lordshipis spous and the Kingis Maiestie ar of kyn.⁴—It is ansuerit be my lord Aduocat, the rekning was nocht relevant, becaus kyn to the King makis nane suspect, in his caus.—It is allegit aganis *my Lord Balmirrienoch*, that he can nocht be Assessor, becaus the Aduocat being persewar, be direction of the Queenis Maiestie, that the Aduocattis spous and my Lord President ar ferds of kyn; and sa can nocht be Assessor.—To the quhilk it is ansuerit, the allegiance is nocht relevant; and thairfor mereitis na ansuer.

THE JUSTICE, be Interlocutour, finds that the noble men nominat Assessoris may sit as Assessoris in this cause, nochtwithstanding of the allegiances proponit be the pannell in the contrair. Quhairupone the Aduocat askit instrumentis.

My lord Aduocat declairit, that he insistit nocht aganis Johne Buchannane, bot allanerlie as spous to Margaret (Hertfyde) for his entreis; quhairupone Johne Buchannane askit instrumentis.—The pannell acceptis the Summondis and Dittay contenit thairin, as the samyn is qualifeit.

It is allegit be the pannell, that the Summondis is blank, bayth in the tyme and place of the committing of the fact lybellit; quhilk man be fillit befor forder proces. It is ansuerit be the Aduocat, that the pannell man say, quhairin the blankis ar prejudiciall to thair defensis.—It is duplyt, that the exceptionne standis relevant, nochtwithstanding of the ansuer maid thairto, in respect that of the Law Ciuill thair is a solempne forme prescryuit anent accusationis, that thairin tyme and place fall be determinat; *quia non oportet in Criminibus vagari*: Lege libellorum § *de accusationibus*, &c. *significasti*, extra *de libelli obligatione*. Bald. Consilio, 1420, vol. iv. Julius Clarus, paragrapho finali, questione

¹ Decided, made matter of pratique (practice) or precedent.

² Witchcraft.

³ Gowrie

Conspiracy. See Aug. 22, 1600.

⁴ Alexander, seventh Lord Levingstoun, married Lady Helenor Hay, only daughter of Andrew, seventh Earl of Errol. They were entrusted with the care and education of the Royal children.

xij. *Speculator*, in titulo *de furtis*, numero 2. Quhilkis folemniteis ar vniuersallie obleruit, bayth in Scotland, and in the haill world. And forder, thair is ane grit necessitie to condiscend vpone the speciall moneth, becaus the Dittay beiris, anno 1603; and it is nottour, that in dyuerse monethis of the said yeir, hir Maiestie was resident in Scotland, albeit the Dittay beir the place to be, 'out of his Maiesteis Palaces in Ingland.'—It is answert be my lord Adnocat, that I haif alreddie declairit the Crymes lybellit to haif bene committit sen (*since*) the passing to Ingland, furth of some of his Maiesteis Palaces thair; quhairby the Summondis is speciall aneuch, vnles the pannell wald allege, quhat particuler tyme and place wald mak the fact lybellit lauchfull.—It is answert, that my lord Aduocattis declaratioun is mair generall nor the lybell; and of the law, *debet prius constare de delicto*, &c., quhilk man be circumscribit, *tempore et loco delicto*. This Julius Clarus, libro v. Sententiarum—finali questione, iv. et v.

SECUNDO, it is allegit that thai woirdis of the Dittay, 'subscriuit and detentit,' ar nocht relevant, *et non sunt verba juris*, to infer a cryme.—It is answert, that the Lybell standis relevant, as it is confaut.¹

TERTIO, it is allegit, that the last pairt of the Dittay, anent the generall woirdis of 'perles, pretious stanes and goldsmyth-wark,' is nocht relevant, becaus the particuler number is nocht designet, and qualitie thair of; becaus of the Law, *in furto rerum plurium, designandus est numerus; quia, sine designatione numeri, non possunt res intellegi, ubi sunt plures. L. in actione furti, § de furtis. In auro infecto pondus in facto et signato numerus et intesto color dicendus est*. And the expres text of the same matter, in *L. si quis uxori, § si lineu margaritarum surrepta est, dicendus est numerus, et non satis est res surreptus demonstrari per estimationem*: With this woird, that vpone ane generall clause, *neque in Civili neque in Criminali*, na proces can be grantit.—It is answert be my Lord Aduocat, that the conclusioun of the argument is, that gif he fra quhome ane chenge, or perles, or ane Jowell composet of mony stanes is stown, can nocht condiscend vpone the particuler number thair of, the theif fall bruik the samyn, but remeid² of Law; quhair of I refer the relevancie and consequences to the Justice and Assessoris.—The pannell repeittis the exceptiones, quhilk is foundit vpone the Law; and as to my lord Aduocattis answert, it meitis nawayis; becaus the samyn speikis *de corpore unito et de gemmis inclusis in vno auro*, and the exceptioun oppingis directlie the lybell; becaus it condiscendis nocht vpone the stanes, Jowellis and goldsmyth-wark, quhilk ar bayth *distincta corpora, numero et specie*, mony of thame and of dyuerse natures. To the quhilk is maid na answert.

QUARTO, it is allegit, that, seing the Dittay is foundit and makis expres relation to certane Depositiones, allegit maid be the pannell, at tua seuerall tymes, in

¹ Conceived, framed.

² Without legal remedy or redress.

October and November, thairfoir my lord Aduocat, of all reffone, aucht to produce the faidis Depositiones, nocht only to the effect that the pannell and hir prelocutouris may confidder thame, for the caufe contenit in hir firft Proteftation, bot alfo, to the effect fcho and thay may be hard to reffone befor the Judge, anent the conformitie and difconformitie of the faidis Depositionis and with the Dittay ; quhilk man be confidderit and tryit be the Judge ; feing the famyn confiftis *in jure* : And gif this be nocht done, thair will follow ane grit inconvenient, to wit, that the Affyfe, gif this matter fall pas to thair knowlege, fall be forcet to reffone and difcufs vpon the faid conformitie and difconformitie, quhilk is nocht proper to thame, the famyn being *juris et non facti*.—It is anfuerit be my Lord Aduocat, that vules ather the pannell, be thair consent, or the Juftice, be his Interlocutour, will find the Summondis relevant, he can nocht be astrictit to produce his probatioun.

QUINTO, it is allegit, that the Dittay is nawayis relevant, fetting down only generallie that the perles, alleget fubtractit, pertenis to the Quenis Maieftie, and nawayis condifcending in quhais poffeffioun thai war, the tyme of the allegit fubtracting thairof ; quhilk man be condifcendit ; for gif thai war nocht in the Quenis Maiefteis poffeffioun, than the pannell could nocht commit Thift, in mell-ing¹ thairwith ; for of the Law, in *Lege prima*, § *fi qui testamento liber*, &c., it is faid, *quod furtum est tantum poffeffionis* : And Baldus, Concilio 238, vol. ii., fayis, *quod proprietatem nemo alteri subtrahere potest*, &c. ; and gif thai wer in the pannellis poffeffioun, fcho could nocht commit Thift be difponing thairvpon, *Lege, qui vas*, § *qui voluntate*, ff. de furtis, *qui ex voluntate domini ferrum recepit, qui neque fur neque plagiarius fit, plusquam manifestum est ; quis enim voluntate domini habens fur dici potest*, &c.—Anfueris my lord Aduocat, the exceptioun aucht to be repellit, in refpect of the lybell, vules the pannell will allege and instantlie verifie, that fcho obtenit lauchfull poffeffioun of the guidis lybellit, and had hir Maiefteis consent and allowance to the alienatioun thairof, quhilk is nevir fubfunit.—It is duplyit, that na pairtie, of the Law, can be compellit to propone, be peremptour (defence), or verifie the famyn, except the Dittay be fund relevant : And forder, allegis, that gif my lord Aduocat will produce the Depofitioun, quhairupone his lybell is foundit, the famyn Depofitionis will verifie, that the perles lybellit can in the pannellis hand lauchfullie.

SEXTO, the pannell acceptis the fummondis and Dittay thairin contenit, fpeciallie that pairt thairof, beirand, that the faid Margaret was mony yeiris in credeit and feruice with hir Maieftie, and hath refflaut many grit benefeitis from hir Maieftie, the tyme of hir feruice, at dyuerfe tymes, to hir heiche advancement, baith in credeit and welth ; and that the faid Margaret vndewtifullie and

¹ Meddling, intromitting. Fr. *meler*.

unnaturallie, at the tyme lybellit, ftaw, &c. : And allegis, that the Summondis is nawayis relevant aganis the said Margaret, being ane woman of credeit, as is confest ; lyk as, it is nottour to the Judges and Affesouris, that scho was ane servand of credeit, at the tyme lybellit, befoir, and dyneris yeiris thaireftir ; sua, of necessitie, in respect of hir credeit, the maner and forme of the steilling of the ftanes and perles lybellit man be condiscendit vpone, viz., quhidder the samyn was committit be force and violence, be breking vp of the durris of the houffis, and lokis of the cofferis, quhair the samyn war ; or was done priveleie, in the nycht, be taking the samyn af hir Maieftis garmentis, or fra hir hienes jowellis, or out of hir hienes cabinettis ; or that scho, vpone the conscience of the said cryme, fled furth of hir Maieftis seruice, and transportit the samyn with hir ; quhilk may be condiscendit vpone, of all necessitie ; becaus thier can nocht Thift be committit, be ane servand of credeit, except the saidis qualiteis concur, to manifest violence *et animum furandi* in the seruand ; *quia, de jure, furtum sine affectio furandi fieri non potest* L. 1. ff. de ffurtis et *ut ait* Bart. ad L. 5, is qui rem § si tu Titium ff. de ffurtis. *ffurtum est nomen juris, hoc est, non omnis contrtractatio rei aliene est ffurtum, nisi accedat dolosus animus furandi* L. Potest. et L. furtum ff. de vfu, &c.¹—It is answerit to the *fact* exceptionn, be my lord Advocat, that, nochtwithstanding thairrof, the Summondis is relevant, becaus the qualitie of the defender is nocht ane occasiome to extenuat the cryme, bot to aggravat the samyn, seing the gritter credeit scho had, scho sould the mair faythfullie discharget the samyn : And it is expresse lybellit, that it was sa far fra the Quenis knowlege or consent, that the pannell sould haif convertit ony of thir jowellis to hir awin vse, (in quhilk caice na policie neidit to haif bene vsed) gif hir Maieftis consent had bene had thairto, that the pannell, to mak hir Maieftie to misken hir awin grit perle, causit hing the samyn to ane dyamont, and offerit to sell the samyn to hir Maieftie, as ane jewell nocht pertening to hir self. Forder, the persewar acceptis the instance proponit be the defender, anent ane scheip-herd steilland his maisteris scheip, for the quhilk he may nocht be persewit Criminallie ; quhairin the persewar is direct contrar to the defendar, and affirmes, that of the law and cownone practik of the cuntrie, scheip-hirdis steilling scheip, committit to thair keiping be thair maister, is ordinarlie hangit thairfoir : Lyk as, David Forrester greve to my Lord of Menmuir, and Robert Loch, his servand, being acenset for steilling fra him of aittis, beir, woll and lynning clayth, the summondis was fund relevant, albeit the greve had charge of all theis thingis, be his office, and had his maisteris credeit ; and being put to ane Assyse, was convict for the maist part thairof : Quhairby, it is manifest, that servandis put in trust and credeit be thair maister, and steilling ony pairt of the geir,

¹ Here a number of sentences abridged from the Doctors follow.

quhairof thay haif the keiping and credeit, ar ordinarlie put to the knowlege of ane Assyse, and convict, gif thai be ffund giltie: And quhair, it is exceptit, that in thift committit be ane fervand of credeit (forceing?¹) of duris or kiftis is requisit, the persewar affirmes to be ane absurd allegiance.—It is answert (replied), that the pannell, in hir last and last exceptioun, querrellis only the irrelevancie of the Dittay, and nawayis meanis to extenuat ane cryme committit be ane fervand; for gif it be certane and tryit that ane fervand hes committit ane cryme, he is maist worthie of double pwnieishment, bot the thing that the pannell contendis for in the exceptioun, is, that na Dittay for Thift can be relevant aganis ane fervand of credeit, except sic qualities and actiones be contenit, quhilk may infer *animum furandi*; and the instances proponit be my lord Aduocat beiris, that fervandis committand crymes and ffund culpable war justifeit;² quhilk nawayis meittis the said exceptioun.—It is declairit be my lord Aduocat, for eschewing of disputatioun vnnecessar, that he insistis only vpone tua poyntis of Dittay; to wit, the steilling, &c. the grit perle of the pryce of an hundreth and x li. sterling, for the first article; and the vther jowellis, perles, stanes and goldsmythwark, for the secund poynt of Dittay: And vffis the haill rest of the lybell, nocht as ane feuerall³ cryme, bot only for explanatioun and qualificatioun thair of; and intendis nocht, at this tyme, to accuse the pannell of contrair⁴ Depositiones.

THE JUSTICE, with advyse of his Assesouris, findis the lybell and Dittay relevant; nochtwithstanding of the haill exceptionis proponit be the pannell.

Quhairvpone my lord Aduocat askit instrumentis.

It is allegit, peremptourlie, be the pannell, that this Dittay can nocht be put to ane Assyse; becaus of the law, ane fervand of credeit haifing the custodie of his Maiesteis guidis, being willing to rander ane compt of his intromissioun, nevir haifing committit ony violent deid, can nocht be accuset of Thift; the intromissioun, fra the begynning, being lauchfull: Bot trew it is, that Margaret Hertfyde, as is confest in the lybell, bothe the yeiris lybellit and dyuerse yeiris of befor, was, lyke as scho is presentlie, hir Maiesteis fervand, vndischarget, with credeit, and willing to gif compt of hir intromissioun, nevir haifing committit ony violent deid.—My lord Aduocat, of his awin motiue, nocht being inducet be my Lord Justice, bot at the pannellis desyre, producet the Depositiones, quhairupoun the Dittay is foundit; quhilk he vffis, at this tyme, for verifeing thair of; vnder Protestatioun, that this be na preparatiue in this Judgement,⁵ at ony tyme heir-estir: And thairupone askit instrumentis; and that this is the only Depositionne that he vffis at this tyme. Quhairvpone the pannell also askit instrumentis.—My lord Aduocat allegit that the Depositionn producet, man⁶ mak full

¹ Obliterated.

² Punished with death. L. B. *justificare*.

³ Separate or distinct.

⁴ Contradictory.

⁵ That this be no precedent in this Court.

⁶ Must.

fayth, and is valid, of the law, nochtwithstanding of the Reuocation maid and ingroffit yisterday in proces, be the defender; becaus na Deposition is revocable, of the Law, quhilkis ar maid voluntarlie, in presens of thame that hes power to examine the pairtie, without ony tortour or feir of tortour. And trew it is, that this Depositione producet, was maid lauchfullie and voluntarlie, and thairfoir is nocht reuocable. Julius Clarus, L. quinto, § finali, questione 55, etq. 65, versaculo, *sed quero*: And in respect thairof, desyres the reuocatione producet to be reiectit, and the protestatione refusit.

It is allegit, that the pannell can nocht be put to knowlege of ane Assyse for hir intromission and melling with the perles and jowellis lybellit; becaus it is set down and confest in the Depositione producet be my lord Aduocat, that the saidis jowellis and perles war gevin be the Quenis Maiestie to the defender, for the vse thairin contenit; quhilk vse was accomplisched and perfyttit to hir Maiesteis contentment; and as to the residu, the defender, supponing that hir Maiestie sould nevir re-demand the samyn, scho disponit thairupoun, quhilk can nawayis be comptit nor estemit ane cryme of Thift, of the Law: first, becaus the saidis jowellis and perles cam, fra the begynning, lanchfullie to the defenderis possessione, and sua scho could nevir commit Thift, be disponing thairupoun. Lege, *qui vas, § qui voluntate*, ff. de furtis, &c. Lege, *qui re ff. de cod. titulo, qui re sibi commodata vel apud se deposita, rursus est non committit, ffurtum, precipue si putauit dominum consensurum*; ut Cuiacius, ad Legem, *si furem*, ff. de pro emptore non omnis rem alienans fur dici potest, *sed initium possessionis respiciendum est, et si initium possessionis iustum fuit, furtum fieri non potest*. Nixt, the Confession, contenit in the Deposition, can nocht be ane cryme; becaus *furtum non potest fieri sine affectu furandi*; and the pannell had nocht *affectum furandi*; becaus the Depositione beris, scho supponit hir Maiestie sould nocht re-demand thame: And in this caise, that Thift can nocht be committit, of the Law it is provin; § *placuit de institutionibus*, &c.¹ And this aggreis verrie weill with the Deposition, quhilk, in effect, meanis that hir Maiestie had forzet² the samyn, and had thame *pro derelictis*; sua that the said Depositione preuis the Defenderis exceptione and everie member thairof: Quhilk Depositione my lord Aduocat can nawayis be hard to deuyd; seing, of the Law, *ubi actus est legitimus in se, nunquam presumitur delictum, nisi probetur*. And to excuse the committer, *sola negligentia sufficit credulitas, immo temeritas*. Gothophredus, § *placuit*. Alexander, vol. iv. Phelinus, cap. *sicut noxius. ac delicti extra de accusationibus*. Baldus, Consilio 98, vol. v, &c.— And gifand³ that qualitie anent hir credulitie war nocht insert in hir Deposi-

¹ Various other clauses are here shortly, but very obscurely and hastily cited.

² Forgotten.

³ Granting, allowing for the sake of argument.

tiounes, yit of the law, quhair the possessioun cumis lauchfullie to ony persones handis, be the will of the maister, gif ony questioun arryfe anent the credulitie or opinioun of the pairtie, quhither he intervertit the possessioun *animo furandi*, of the law, the opinioun or credulitie is provin be the parteis ayth : This is decydit per Bartol. ad dictum 59 ‘*recte*,’ quhair he disputis the said matter *ad longum*, on baith the sydis ; and concludis, in end, that the parteis ayth shold be tane, cheiflie quhair the partie is abill to produce ony probable conjectouris or argumentis, to cleir hir mynd and intentioun ; and quhair hir accuser is nocht able to produce ony probable conjectouris, to preve the contrair ; and the coniectouris and presumptiones quhilk may infer *malam fidem in furto*, is set down in the Law, *in autentica, si vero de exhibendis reis*, Lege *si ffurtum*, ff. de Adulterijs ; to wit, *si per vim, si clam, si aufugit, si persona male et suspecte fame*. Bot nane of thir conjectouris may be qualifeit aganis the pannell. Scho committit nather fraud nor violence : it was nocht committit be hir in the nycht ; and the Deposition beiris the perle was fauld to George Heriot, hir Maiesteis principall Joweller ; and gif thair had bene ane intentioun of Thift, in the pannellis mynd, it can nocht be presumet that scho wald haif fauld the samyn to the Jowaller quhom scho knew wald schaw the samyn agane to hir Maiestie : And it is constant,¹ that scho fled nocht away fra hir Maiestie ; bot, be the space of dyverse yeiris thaireftir, remanit in hir Maiesteis fernice, in grit fanour and credeit : And quhat was hir estimatioun, quhither scho was repute ane pyker² or steiller or no, remittis to the conscience and notorietie of the Judges. And as thair is na suspitioun of Thift aganis hir ; sa, on the vther pairt, thair is mony vehement presumptiones to mak cleir the mynd and intentioun of the pannell, quhilk is nocht necessarlie to be writtin ; bot referris the samyn to the Judges.

It is answerit be my lord Aduocat, that nochtwithstanding the haill incompatible memberis of the exceptioun, the Summondis standis relevant and cleirly verifeit be the Deposition producet ; first, becaus the pannell had nevir lauchfull possessioun of the guidis lybellit, seing the possessioun of the servand of the maisteris guidis, to the maisteris vse, is the maisteris possessioun ; nixt, the vse pretendit be the defender, to wit, to imploy the jowallis delyuerit be hir Maiestie to hir ; to wit, to busk babeis,³ was nocht performet be hir, becaus thai war nocht imployit to that vse ; bot be the contrair, the babeis buskit and sent, and thir Jowallis lybellit, subtractit in maner lybellit ; quhairin the pannell had nevir hir Maiesteis allowance or consent ; and, of the Law, converting of stuff to vther viss nor⁴ is commandit, is Thift, Lege 88 eod. titulo et Lege 82, *ffullo et sarcinator qui polienda et sarcienda vestimenta accepit, si forte his utatur eo con-*

¹ Lat. *constat*.
(dolls) to the Princess.

² A committer of petty theft or *pickery*.
⁴ Than.

³ Deck, adorn, or dress babies

tractatione, eorum furtum feciffe videtur ; quia non ob eam causam ab eo videtur accepta. And quhair, the pannell wald excuse thame selfis *per animum et excusationem delinquentis*, that excuse is commone for all offenderis, and relevant for nane ; nather can the defender pretend simplicitie or guid intentionn, in respect of the fraud vset to caus hir Maiestie misknaw hir awin perle, be hinging it to ane dyamond, and presumptiounne to offer it to be fauld to hir Maiesteis self ; and the Confessionne producet, beiring hir vnlauchfull intromissionne with this perle, and converting of it to hir awin privat vse, man be ane necessar caus of convictiounne, *quia confessio probat contra confitentem, pro eo autem non probat.* Glossa in cap. finali in verb. *Confessio*, versiculo, *item, quod contra se* ; et ibi *post alios* ; Abbas, numero 13, extra *de confessis et confessio qualificatu scindi potest et pro parte rejici* : Bartolus, in Lege, *cum qui ff. de iurejurando.* Julius Clarus, 51, finali questione 55 versiculo, *possèt quoque reus* ; affirmeing, that ane Confessioun, contening the Dittay, and haifing adioinit any qualitie that may releve the Defender, aucht to be ressaunt aganis the proponer ; and the qualitie adiectit can nevir be respectit, vnles it be provin. Prosper Pharinacius, questione 81, numero 127, *quando quis a principio negavit delictum, et postea, vel timore probationum, vel ex quacunque alia causa, illud qualificate confessus est, tunc ratione doli qui presumitur ex precedenti mendatio et negatione, talis confessio scindi potest et pro parte acceptari, pro parte impugnari.* Et Boerius decisio 165 ; et Laurentius, in practica cautelarum, cap. 28, numero 7, *aiunt reum si qualitatem adiectum non probaverit, condemnari debere in penam ordinariam* ; quhilk is our direct caice ; feing the Depositionn producet beiris the Jowallis lybellit to haif bene hir Maiesteis, and fauld be the deponer, to hir awin privat vse, without hir Maiesteis knowlege or consent ; and the qualitie adiectit, of hir ressaueing of thame frome hir Maiestie to busk babeis, is nather relevant ; becaus scho convertit nocht thame to that vse, nor provin in ony way ; and thairfoir fould nocht be respectit ; speciallie, feing the deponaris Declaratioun, in hir awin faouris, can nocht prove forder : And thairfoir, the Summondis is relevant, and is cleirly provin be the Depositionne.

It is ansuerit (replied), that the possessioun naturall of the perles lybellit, war in possessioun of the pannell ; and the possessioun-ciuill, quhilk hir Maiestie had, scho tynt and amittit it, be directing thame to the perticuler vse ; quhilk perticuler vse contenit in the Confessionne, was fulfillit to her Maiesteis contentment ; the intentionn of the partie being provin by her aith, accoirding to the Law, and assistit be probable conjectouris, is sufficient to cleir ony partie accuset, quhair the possessiounne cam lauchfullie to hir handis. The Confessioun and Depositionn maid be the pannell can nocht be devydet, bot be the contrair, the samyn previs hir exceptionne cleirly. The lawis quhilk my lord Aduocat alledges, quhair

Confessio qualificata potest scindi, is only trew, quhair *Confessio facti in se est crimen, ut in Homicidio*; quhilk is the exampill, in the place of Julius Clarus, citit be my lord Aduocat; *sed Confessio non potest scindi*, of the Law, quhair the Confessioun of the deid, without the qualitie of ffelonie, is nocht a cryme; bot is only trew in his tyme, *sunt utroque jure prohibita et natura sua delicta*, cap. *circa delectionibus*. 6 cap. *si vero aliquis de sententia Excommunicationis*. Bartolus ad legem, *genero*. ff. *que notantur Infamia*; et ad legem *si cui* § *eisdem*. ff. *de Accusationibus*; et ad legem *si ex lege*. ff. *de Adulterijs*. Baldus, Consilio 1424, vol. v. cap. *estote misericordes*, &c. § *recte* et Bartolus, *ibi*. The coniectouris aganis the pannell, in respect of the offer maid to the Queen, is contrair to hir Depositionn, for it was nocht scho, bot George Heriot quha offerit the samyn, eftir it (wes) fauld. The Lawis allegit be my lord Aduocat, *Lex fullo*, &c., it is answert thay contene onlie *legem Communem*; and myne contenis *exceptionem*; and the perticuler caissis of the Ciuill Law can nocht be obseruit with us, *quia variatur pena; nam in jure pena furti est dupli apud nos capitalis*.—My lord Aduocat repeatit the practikes concerning the shiphird, my lord of Menmuris grevis, and the Laird of Bonyngtones steilling of his fatheris euidentis; and protestit that he may haif ane speciall and direct answert to everie article that is proponit or writtin in the proces; speciallie anent Revocatioun, and the effect of the probatioun be this Depositionne.

THE JUSTICE, with advyse of my Lordis Assessoris, findis, that in caice the pannell will nocht consent that the Reuocatioun of her Depositiones maid at Dunfermeling be deleit, that the samyn falbe Repellit; in respect of my lord Aduocatis answert maid thairto. And also, with advyse foirsaid, Repellis the foirsaidis peremptour exceptiones proponit for the pannell; and Ordanit the Summondis and Dittay to be put to the knowlege of ane Assyse, to be verifeit, as accoordis of the Law.—Quhairupoun the Aduocat askit instrumentis.

It is allegit be the pannell, that it is lauchful to hir to revoik quhatsumeur Depositionis maid be (hir) to hir preindice: becaus the samyn war maid be hir *metus causa*, viz. *carceris metu*,—*et amissionis bonorum*,—*et metu amissionis vite*,—*et reuerentia Principis*,—and want of hir husband; and the Confessiounne bindis nocht the confessor, except he perseveir thairin; per legem primam, *de Questionibus*.—The Aduocat, for answert, repeatit the Justice and Assessoris Interlocutour. [My Lord Chancellor declairis, that he sall mak his declaratioun to the Assyse, quhan he sall be inquiryt.¹]

¹ This is partially deleted. The uncommon nature of the Crime, and the interest of these pleadings, have induced the Editor to insert the entire arguments. The real cause of the Criminal prosecution of this servant of the Queen is understood to have originated in Mrs (afterwards Lady) Buchanan's being too deeply versed in certain Court intrigues; and it was deemed necessary to get rid of her, even in the face of the most strenuous remonstrances on the part of her Majesty.

ASSISA.

Sir Johnne Prestoun of Valafeild,	Harie Guidlet of Vphall,	Johnne Forbes of New,
James Somervell of Garidwoid,	Mr Moreis Drummond of Auch-	Jo ⁿ Scott, bailzie of Muffilburgh,
Johnne Hammiltoun of the	termuthill,	Thomas Eplene of Newbiging,
Grange of Kilmarnok,	Andro Boyde, brother to Kil-	Jo ⁿ Broune, bailzie of Muffilburgh,
Mathow Bailzie of Littilgill,	marnok,	Dauid Dundas of Preiftinche,
Johnne Corbet of Ardbo,	Ro ^t Logie, bailzie of Quenis-ferie,	James Hammiltounne of Garene. ¹

The Aduocat repetis the Depositionn produceit, and my Lord Justice Interloquoutour, findand the haill Dittay relevant: And in respect thairrof, and of hir becoming in will, in hir Depositiones, protestis for Wilfull Errorr.

VERDICT. THE said perfonen of ASSYSE, be the mouth of the said Dauid Dundas, chancellor, all in ane voce, ffand, pronuncet and declairit the said Margaret Hertfyde to be ffylit, culpable and convict of the vnlawfull and vndewtifull substracting and detening frome our fouerane lordis darrest spous, the Quenis Maiestie, furth of his hienes Palices of in Ingland, at the leift furth of ane or vther of the saidis Palices, of ane perle, of the valour of ane hundreth and ten pund sterling; togidder with dynerse vtheris perles, precious stanes, jowellis and goldfmyth wark, lykwayis pertening to hir Maiestie, worth the fowme of thre hundreth pund sterling, or thairby; committit be the said Margaret, in the monethis of, the yeiris of God I^m.Vj^c. thre, fax hundreth foure, fax hundreth fyve, fax hundreth fax and I^m.Vj^c. and fewin yeiris, at the leift in ane or vther of the saidis monethis and yeiris: Lyk as, the saidis perfonen of Assyse, be the mouth of the said Chancellor, for the maist pairt, ffand, pronuncet and declairit the said Margaret Hartfyde to be Clanget of the steilling of the said perle, togidder with the remanent perles, precious stanes, jowallis and goldfmyth wark foirfaid. In witnefs quhairof, the chancellor of the said Assyse hes subferyuit the said deluyurance, with his hand.

(Sic subfcribitur)

DAUID DUNDASS.

[*Apud Lynlythgow, Aug. 10, 1608. Mr Williame Hairt, Justice-Depute.*]

DOME contrair Margaret Hairtsyde.

Aug. 10.—The quhilk day, Margaret Heartfyde and Johnne Buchannane² hir spous, for his entreis allenerlie, being presentit vpone pannell, to heir his Maieftis will and plesour declairit aganis hir, as scho that was convict be ane Assyse, in ane Court of Justiciarie, haldin in the tolbuith of Lynlythgow, the first day of Junij lastbypast, &c. Compeirit Sir Thomas Hammiltoun of Bynnie, knycht, and producet his Maieftis Precept and Warrant, quhilk the Justice caufit to be publictly red; quhairof the temour followis.

JAMES R.

JUSTICE GENERALL, Justice Clerk, Clark and 3our deputis, We greit 3ow weill. QUHAIR AS, Margaret Hairtsyde was, vpone hir awin Confessioun, convicted for pe vnlauchfull and vndewtiefull abSTRACTING and detening of certane jowellis belonging to our darrest bedfellow THE QUENE, and pairpoun remittit to prissone, till our further plesour sould be declairit concerning hir: WE haif thocht guid, be theis presentis, to signife our said plesour to 3ow; quich is, that 3e fall, with all convenient expedition, cause affix and fens³ ane ordinaire Justice Court, at our burgh of Lynlythgow; and pair, (scho and hir husband, for his entreis, being present,) it be declairit, that howfoenir the Atlyse acquit

¹ 'Sir James Sandilandis of Slamanno' is deleted from the roll of Assise. ² 'John Buchanan and his wyffe, Margaret Hartesyde, that had layn longe in prissone heire, for the allegeit stealling some of the Queins Jewells (bot the Courtiers talked, that it was for renelling some of the Queins secretts to the King, wich a wysse chalmbermaide wold not haue done,) was, by ane sentence, condemned to perpetnall exyle, in the Iylandes of Orkney, and declared to be ane infamous persone, in Aguste this yeir' (1608).—*Sir J. Balfour's Annals*, II. 26. ³ Fence, hold.

hir of the cryme of Thift, 3it, in regaird that, vpon hir awin Confessioun, scho was fund giltie, as is afoirfaid; in that respect, We accompt hir fact alse infamous, as gif it had bene done be direct stelh: And that, fecing pair can be no difference betwene the vnlawfull meddling with any thing belonging to the Quene, our darrest bedfellow, hir persone, and our awin, and lykwayis that pe exampill is most pernitions, and alluterlie intollerable, that any face or cullour sould be pute vpon pe coofening or abstracting frome aper of ws any pairt of our jowellis or moveabillis, by such as ar in trust, or haif pe keping of thame, We most conclude, that scho hes delt so dithonestlie heirin, as We account her als worthie to be repute and declaired INFAMOUS,¹ (lyk as, it is our plesour that 3e declair hir to be so) as gif scho had bene directlie convict of Thift: 3e fall lykwayis declair, that it is our plesour, that scho fall with all expeditionn repay, out of the reddiest of hir and hir husbandis guidis, to Henrie Wardlaw, Chalmerlane to our darrest bedfellow the Quene, of hir Lordschip of Dunfermeling, the liquidat valew of theafe jewallis, contenit in hir proces, to be convertit to suche vse as our said darrest bedfellow fall think convenient: And lastlie, 3e fall declair, that it is our plesour, that hir persone fall be, for hir said dithonest offence, confynit to pe YLES OF ORKNAY; thair to remane, and nocht exceid the boundis pairof, induring hir lyfytme; vnder all hiest pane and charge: QUHICH Dome being pronuncet, 3e fall cause hir be sasse convoyit bak to our Castell of Blaknes, pair to remane in sure firmance, till scho find guid and sufficient cautoun, alswell for payment of the said sowe, contenit in hir proces, within fyftene dayis nixt eftir scho salbe charget for the same, as also for entrie of hir persone, in the place of hir confining, within fourtie dayis nixt eftir scho fall be fred out of our Castell of Blaknes: FOR Dome and performeing of everie of pe which premisses, theafe presentis fall be vnto 3ow ane sufficient Warrant. GEVIN at our Mannour of THEOBALDIS, pe tuentie day of July, 1608.

Accoirding to the quhilk Warrant, the said Justice-depute, be the mouth of Henrie Wilfoun, dempster of Court, Declairit the said Margaret Hairtfyde to be INFAMOUS; And lykwayis declairit and decernit the said Margaret to repay, with all expeditioun, out of the reddiest of hir and hir husbandis guidis, to Henrie Wardlaw, Chalmerlane to our souerane lordis darrest bedfellow the Quene, of her lordschip of Dunfermeling, the sowe of foure hundreth pund Sterling money, extending, in Scottis money, to the sowe of foure thousand and aucht hundreth li., as the liquidat valew of thois Jowellis, contenit in hir proces, to be convertit to sic vse as hir Maiestie fall think convenient: And lastlie, decernit and ordanit that hir persone fall be, for hir said dithonest offence, confinet to the Iles of Orknay, thairin to remane and nocht exceid the boundis thairof, induring hir lyfytme; vnder all hiest pane and charge. Quhilk was pronuncet for Dome, &c.

Mr Johnne Dalzell, burges of Edinburgh, become cautoun and souertie for the saidis Margaret and hir spous, for his entreis; and they all, conjunctlie and seuerallie, Band and obleist thame to pay and delyuer to the said Henrie Wardlaw the said sowe; and that within fyftene dayis nixt eftir thay be charget to that effect. And sicklyk, the said Mr Johnne Dalzell become bundin and obleist, as cautioner and souertie for the said Margaret, that scho fall entir hir persone in the place foirfaid of hir confining, within fourtie dayis eftir the dait of thir presentis, (the morne, viz. the ellevint day of August instant, being comptit for the first day,) vnder the pane of Ten thousand merkis Scottis money, &c.

¹ (On the margin.) 'Thir wordis of Infamie is ordanit to be deletit, conforme to his Maiesteis expres Warrant, insert in the Register of Adionall, pe xv of December, 1619.'

JAMES R.

JUSTICE GENERALL, Justice Clark and your deputtis, We greit you weill. Quhair as, our trustie and loyall seruatrix MARGARET HEARTSYDE, the spons of Sir Johnne Buchannane, kny^t, was, by the finisterous informatioun of certane hir vnfreindis for the tyme, persewit criminallie befor you; and being put to ane Assyse, was Acquit and absolt of that speciall point of hir Indytement, which of the Law sustenit the samyn to be relevant to be tryit and cognosct be thame, and onlie was fund gilty of certain adminicles insert in hir Dittay, for qualificatioun of hir alledget cryme. Vpon the whilk convictioun, doome and sentence, according to our Warrant and Declaratioun pairtill, in ane Justice Court, haldin be you, within our tolbuth of Lynlythgow, vpon the tent of August, 1608, was gevin out against hir, Declairing hir to be Infamous. Quhill doome and sentence being maist humlie and with grit patience and modestie imbracet and vnderlyne be hir, and hir behaiour continually senfyne being verrie deutfull. THAIRFORE, and that the foirsaid Doome gevin out against hir may nocht be a precedent, nor haif force heirefter, It is our gracious Will and plesour, that the foirsaid Declaratioun of the said Margaret Heartsyde to be INFAMOUS, insert in hir proces, be haldin as deleit furth thair of; and on nawayis to be extractit or gevin out to ony persone or persones, in tyme cuming; bot that this our Warrant and Declaratioun be insert in our Registeris of Adiornall, for reponeing of hir to hir fame, against the samyn Sentence; Whilk We command you to be done. Sua, nothing douting of your cair and reddines heirintill, We bid you hairtie fairweill. Frome our Courte, at Roystoun, the fyfteenth day of Nouember, 1619.

Slaughter.

JUN. 21.—MR ALEXANDER INNES, sumtyme Minister at Birnay.

Dilaitit of airt and pairt of the Slauchter of vmq^{le} Agnes Leslie, relict of vmq^{le} . . . Douglas, proveist of Elgyn, and of vmq^{le} Williame Hay, father-brother to Williame Hay of Mayne; committit vpon set purpois, prouisioun and foirthocht felony.

James Hay younger of Mayne, as neir kynsman to vmq^{le} Williame Hay, his guidsehires brother, and Alexander Bischope of Murray, as sone to vmq^{le} Agnes Leslie, producet our souerane lordis Letteris, deulie execute and indorsat at thair instance aganis Andro Meldrum, callit of Dumbrek,¹ as cautioner and souertie for the entrie of Mr Alexander Innes, &c. and offerit thame felfis reddie to persew.

THE Justice ordanit the said Andro to be vnlawit in the pane of tua hundreth merkis, becaus the said Mr Alexander Innes was at the horne of befor, and fugitiue for the saidis crymes: And siclyk, ordanit the said Mr Alexander, for his nocht compeirance, to be denunciit rebell and put to the horne; and all his moveable guidis to be escheit, &c.

[*Mr Alexander Coluill, Justice-Depute.*]

Treason, &c.

JUN. 22.—JOHNE LORD MAXWALL.

Mr Williame Broun, ane of the clerkis in his Hienes Thesaurarie, producet our souerane lordis Letteris, deulie execute and indorsate, vpon Johnne Lord

¹ ' Brother-germane to vmq^{le} . . . Meldrum, sumtyme of Dumbrek.'

Maxwall; be the quhilkis he hes past to the horne, for dyuerse tressonable crymes contenit thairin; and thairupoun askit instrumentis.¹

Slaughter.

Jun. 29.—SIR ROBERT GORDOUN of Lochinvar, knycht.

Dilaitit of the Slauchter of vmq^{le} James Gordoun, his padge.²

The Aduocat producet the Letteris raisit at his lordschipis instance, deulie execute and indorfate vpon the said Sir Robert, Johnne Gordoun of Airdis and Johnne Gordoun of Collindach, cautioneris, coniunctlie and feuerallie, for the entrie of the said Sir Robert, to vnderly the Law, for the crymes contenit in the Letteris.—Compeirit Mr Williame Oliphant, Mr Johnne Ruffell, and Mr Alexander King, Aduocattis, as procuratouris for Johnne Gordoun of gelftoun and Johnne Gordoun of Collindach, be thair Letteris of procuratorie Producet; and declairit na proces aganis thame, in respect of the Proclamatioune; and thairfoir, can nocht be vnlawit.—It is answert be my lord Aduocat, that thair excuse can nocht be ressaunt, becaufe thai ar nocht charget for thair awin personall compeirance, bot to enter the Laird of Lochinvar; quhilk lauchfullie mycht be done, thay being absent. *Secundo*, the Raid has nocht as yit tane effect, and the cautioneris and principall pairtie ar yit in thir pairtis.—It is answert be the procuratouris for the cautioneris, *excusatorio nomine*, that thai ar nocht obleift to attend at Edinburgh vpon the Leutenment, bot only at Ilay, conforme to the Proclamatioun, as place appointit vpon the viij day of July, to pas forward to the Raid; and thairfoir the Justice, in respect of the Proclamatioun, can nocht vnlaw the cautioneris.

THE Justice continewis his Interlocutour, vpon the saidis allegiances, to Setterday nixt, the secund of July.

Jul. 2.—Compeirit Johnne Belscheillis (Belches), aduocat, as procuratour for Sir Robert Gordoun of Lochinvar, knycht, and his cautioneris, and producet ane Warrant of the Counsell, subferyuit be my lord Chancellor and my Lord of Dumbar, for deserting of this dyet: quhairof the tennour followis.

JUSTICE, Justice Clerk and 3our deputis, it is his Maiesteis Will and pleasour, that 3e desert 3e dyet appointit for tryell of Sir Robert Gordoun of Lochinvar, knycht, for 3e Slauchter of his padge: Ordinand alwayis the cautioneris, fand ofbefoir for his entrie, vpon xv dayis warning, befoir 3ow, to vnderly the law for the said Slauchter, to stand. Quhairanent 3ir presentis fall be 3our Warrant. Subferyuit with our hand, AT EDINBURGH, the second day of July, 1608.

(Sic subferibitur) AL. CANCELL. DUMBAR.

The quhilk dyet the Justice desertit; and ordanit the cautioneris to remaine caution, as ofbefoir. Quhairupoun Johnne Belsches askit instrumentis.

¹ See the Trials and proceedings against this remarkable person, and the Account of the singular escape of Lord Maxwell and Sir James Maconeill from the Castle of Edinburgh, &c. in a future Part of this Collection.

² Page.

[*Mr Williame Hairt, Justice-Depute.*]

Resisting the King's Guard — Treasonable Slaughter, &c.

Jul. 14.—NINIANE ELLOTE, sone to Williame Ellote of Fiddeltoun,

Williame Ellote, sone to vmqle Johnne Ellote of Burnegranes.¹

Dilaitit, accuset and persewit in the proud and contemptuous Refisting of his Maiesteis Guaird, and remanent crymes contenit in the Dittay following, viz.

FORSAMEKILL as, the saidis Niniane and Williame, being fugitiue fra dyuerse Justice Courtis, haldin be his hienes Commissionis, at Jedburgh and Dumfreis, for cownone Thift, cownone resset of thift, outputing and inputting of thift, and for dyuerse perticuler Thiftis, Murthouris, Slauchteris and Oppressionis; as the Dittayis and actis, gevin out thairupoun, at lenth beiris: ffor the quhilkis crymis, thay reteirit thame self out of thair awin cuntrie, to the West cuntrie, to seruice, quhair thay remanit thir dyuerse yeiris bygane; quhill that laitlie, the Lordis of his Maiesteis Counfall, vnderstanding quhair thai wer, directit Sir Robert Hepburne of Alderfoun, knycht, Lieutenant to his Maiesteis Gaird, to tak and apprehend thame: Quha, vpone the tuelf day of July instant, accompaneit with vmqle Williame Bailzie and dyuerse vtheris of the Gaird, come to the oistler-hous² vpone the Laird of Watterheidis landis, quhair the saidis perfones had reteirit thame selfis vnto, for the tyme: And haifing, in peceable maner, requyret thame to rander thame selfis to him and his companie, as haifing Commiffioun of the Lordis of Counfall to that effect: Nochtwithstanding quhairrof, the said Niniane and Williame Ellotes, the said day, maist prouddie and contemptioulle resistit the said Commiffioun, and in grit contempt of our fouerane lordis auctorite, schot furth of the said hous at the said Lieutenant and his companie, his hienes Commissionis in that pairt, and Gaird, to the number of tuentie schot of Hagbutis and Pistolettis; and thairwith schot and slew the said vmqle Williame Bailzie, being ane of his Maiesteis Gaird; and nawayis wald rander thame selfis, nor cum furth of the said hous, quhill, accoirding to the said Commiffioun,³ flyre was raisit thairaboutis: Quhairthrow, to thair former wrangis and oppressionis, hes conioynet haynous and crewall Slauchter with hagbuttis, and proud contempt of his Maiesteis auctoritie: And thay and ather of thame ar airt and pairt of the said crewall and presumptuous Slauchter, and of beiring, weiring, schuiting of pistolettis and hagbutis, and slaying the said vmqle Williame Bailzie thairwith; committit in maner and at the time foirsaid; in hie and proud contempt of his Maiesteis auctoritie and lawis.

ASSISA.

... Carutheris of Howmaynes,	Robert Power, burges of Edr,	James Cranfoun, indueller in Edr,
Geo. Hereis, sumtyme of Essie,	Thomas Hill, ane of the Gaird,	Thomas Smyth, burges of Edr,
Johnne Trumbill, ane of the Gaird,	Johnne Leyis, burges of Edr,	Johane Mafoun, burges thair,
Thomas Moffett, wryter,	James Haitlie, ane of the Gaird,	Robert Crytie, burges thair,
Tho ^s Mow, b ^r to the Laird of Mow,	George Smyth, burges of Edr,	R ^t Stewart, bailzie of Lynlythgow.

The Aduocat protestis for Wilfull Errorr, in cais thay Acquit. And askit instrumentis of the Leutenentis Declaratioune to the Assyse, concerning the Commiffiounne gevin be the Counfall; and of the forme and maner, how the pannell resistit him and his companie, in the executioun thairrof.

VERDICT. The Assyse, all in ane voce, be the mouth of the said Carutheris of Howmaynes, chancellor, ffand, pronuncet and declairit the said Niniane and

¹ They are, in another place, described thus,—‘Niniane Ellote, sone to vmqle Jok of Burgranes; Williame Ellote, sone to Will of Fiddeltoun.’

² Hostler-house. Old Fr. *hostellerie*.

³ A

Commission, containing warrant of ‘fire and sword.’

Williame Ellottis to be ffylet, culpabill and convict of airt and pairt of the Slauchter of the said vmq^{le} Williame Bailzie, and of beiring, weiring and schuiting of hagbutis and pistolettis, and of the contemptuous resisting of his Maiesteis Gaird, in maner specifeit in the said Dittay.—SENTENCE. For the quhilk cause, the said Justice-depute, be the mouth of Johnne Cheislie, dempster of Court, decernit and ordanit the saidis Niniane and Williame to be tane to the Castell-hill of Edinburghe: and first, thair richt handis to be strukin af thame, as culpable and convict of the beiring, weiring and schuiting of hagbutis and pistolettis, contrair to the Actis of Parliament; and thaireftir, to be hangit vpone ane gibbet, quhill thay be deid: And all thair moveabill guidis to be escheit and inbrocht to his Maiesteis vse, as convict of the Slauchter and remanent crymes aboue writtin: Quhilk was pronuncet for dome.

[*Mr Williame Hairt of Prestoun and Mr Alexander Colwill, Justices-Deputes.*]
Treasonable Murder, &c.

Jul. 15.—JOHNNE MURE elder (and James Mure Y^r) of Auchindrane.¹

Dilaitit of airt and pairt of the tressonabill Murthour and Slauchter of vmq^{le} Sir Thomas Kenneydie of Culzeane, knycht, and Williame Caldwell (Dalrymple?)

PERSEWAR, Mr Robert Foulis, aduocat, substitute to our fouerane lordis Aduocat.

COMPEIRIT Gilbert Rofs, Proveist of the College Kirk of Mayboill, seruitour to my Lord of Cassillis, and producet our fouerane Lordis Letteris, deulie execute and indorsate, the ane purchest be my Lord of Cassillis and his hienes Aduocat, for his Maiesteis entreis, aganis the Lairdis of Auchindrane elder and younger; and the vther Letter aganis the Lairdis of Bombie, Caldwell, and Young Langschaw, as cautioneris for the said James Mure younger of Auchindrane, for his entrie this day and place.

The Aduocat producet the Counfalls Warrant, direct to the Justice, for continuatioune of this dyet to the xxij day of November nixt; quhair of the tenour followis.

MY LORDIS OF SECREIT COUNSALL, vnto your lordshipis humlie meanis and schawis I, JOHNNE ERLE OF CASSILLIS, that quhair I haif raisit criminall Letteris aganis Johnne Mure of Auchindrane and James Mure his sone, for pair compeirance befor pe Justice or his deputis, vpone the xv day of July instant, to vnderly the Law, for pe Slauchter of vmq^{le} pe Laird of Culzeane and Murthour of Williame Dalrympill, and hes causit summond ane Assyse to pat effect; bot in this meane tyme, pis expeditioun for pe Illis hes interuenit, sua that naper may I compeir, to concur with his Maiesteis Aduocat in pis persute, nor 3it may the persones summond vpone pe Assyse compeir, bot ar vpone pair preparatione for pat seruice: And sua, seing pat pis delay proceidis nocht vpone ony ocaasioun of myne, bot vpone necessitie of his Maiesteis seruice, I maist humlie besek your Lordshipis to gif command to pe Justice, (Justice) Clark and pair deputis, to continew pe said dyet to sum certane dyet, eftir pis seruice in pe Yles. And becaus pe cryme laid to pair charge is tressonabill, that the said Jus-

¹ See Jun. 23, 1602, Nov. 23, 1608, Jul. 1611, &c.

tice and Justice Clerk cause commit pe saidis perones to waird, in the Tolbuith of Edinburghe, pairin to remane, vpon pair awin expensis, ay and quhill pe nixt dyet, to be appoyntit be 3our lordschipis. And 3our lordschipis anfuere humlie I beseik.—[*Followis the Lordis delyuerance.*]—APUD EDINBURGHE, xiiij July, 1608. THE Lordis of Secreit Counfall, Ordanis and commandis pe Justice, Justice Clerk and pair Deputis to continew pis dyet within writtin, to pe xxij day of November nixtocum : And to returne Auld Auchindrane bak agane to his waird, within the Tolbuith of pis burch of Edinburghe : And to caus 3oung Auchindrane caus his former cautioneris consent, of new, to enter him befor the Justice, pe soirsaid day, vnder the pane contenit in the former Act ; and failzieing pairof, that he find als sufficient cautionn, to pe contentment of pe Counsell, for pe same effect ; and in pe meane tyme, quhill pis cautionn be fund, pat he caus 3oung Auchindrane be committit to waird, within pe Tolbuith of Edinburghe. (Sic subseribitur) AL. CANCELL.

Mr Johnne Russell, prelocutour for Auld Auchindrane, and Auchindrane him self, Offeris him self to the tryell of the Law, for the crymes contenit in the Letteris ; disafenting to all continuatioun : And as to the Warrant producet, the samyn aucht nocht to be respectit, in respect it is purchest only be the pairtie. Compeirit Mr Johnne Russell, as prelocutour for the Lairdis of Bombie, Cauldwell and Young Langschaw, and allegit that thai can nocht enter James Mure, younger of Auchindrane, in respect of the Proclamatioun.—It is anfuereit be the Aduocat, for Auld Auchindrane, that, in respect of the Proclamatioun, the dyet man continew, conforme to the Counsellis Warrant : And as concerning Young Auchindrane, the cautioneris aucht to present him, or vtherways incur the vnlaw.

THE JUSTICE Ordanis the Auld Laird of Auchindrane to be committit to waird, conforme to the Counsellis Warrant. Quhairupoun the Aduocat askit instrumentis. And as concerning Young Auchindrane and his cautioneris, continewis this dyet, in the same forme, force and effect as it is now, to the xxij day of November nixtocum : and ordanis the cautioneris that day, to exhibeit the Young Laird of Auchindrane, vnder the panes contenit in the former Act : And Ordanis Letteris, gif neid beis, to be grantit to the pairtie perfewar, for chargeing of the saidis cautioneris to enter him the said day.

Quhairupoun the said Gilbert Ross askit instrumentis.

[*Mr Williame Hairt, Justice-Depute.*]

Cattle-stealing — Murder — Shooting of Pistolets, &c.

Aug. 12.—JAMES HAMMILTOUN of Spittelscheill.

Dilaitit, accuset and perfewit, be James Lord of Balmirrenoche, President of the College of Justice, and Sir Thomas Hammiltoun, knyght, for his hienes interes, of the crymes following, viz.

FOR airt and part of the thiftious fleilling, conceling, ressetting and away-taking of thre oxin and ane kow furth of the landis of Mulroun, pertening to the said James Lord of Balmirrenoche ; committit in the moneth of August, or thairby, the yeir of God 1^m.V^{jc}. and six yeiris. ITEM, for airt and part of the thiftious ressetting of ffyve oxin, within his landis of Spittelscheill, quhilk pertenis to Williame Flint in Breichmilne, and wer thiftioufflie stollin furth of the laudis of Breichmyll, in the moneth

of September lastbypast. ITEM, for airt and pairt of the thiftious Steilling, conceling, refetting and away-taking of tuell hydys furth of ane barkhoill,¹ fra Cordiner, befyde Lauchop, committit in the moneth of . . . I^m.Vj^c. . . yeiris. ITEM, for airt and pairt of the crewall Murthour of vmq^{le} George Tuedie, within the said James Hammiltounis barne, in Spittelscheill: committit vpoun Sanct Leonardis ewin lastwas. ITEM, for contravening of oure fouerane lordis Actis of Parliament, in beiring, weiring and schuitting of pistolettis; and specialle, for schuitting ane pistolett att . . . Lokart of Ley, in the taking of yow; committit in the moneth of July lastbypast. ITEM, ffor commoun Thift, commoun Refsett of thift, inputting and outputting of thift, fra land to land, fra countrey to countrey.

ASSISA.

Mr Patrik Lyndsay, indueller in Ed^r, Mr Johnne Methven of Barnfeild, James Bailzie of Hillis, Johnne Weir, seruand to my lord Angus, Sir Robert Scott of Thirlstane.²

VERDICT. The Assyse, be the mouth of the said Johnne Weir, chancellor, ffand, pronunceit and declarit the said James Hammiltoun to be ffylit, culpabill and convict of the haill crymes and poyntis of Dittay.—SENTENCE. To be tane to the Castel-hill of Edinburghe, and thair his heid to be strikin fra his body; and all his landis, heritageis, takis, &c. to be fforfaltit and inbrocht to our fouerane lordis vse, as convict of the saidis crymes. Quhilk wes gewin for dome.

[CURIA JUSTICIARIE, tenta in Pretorio burgi de Ed^r per Magistros Olivarium Colt juniozem et Davidem Prymrois, Aduocatos, Jusficiarios Deputatos, per Commissionem Dominorum Secreti Consilij.]

Slaughter.

Sep. 29.—WILLIAME NISBET in Newtoneyeis.

Dilaitit of airt and pairt of the Slauchter of vmq^{le} Gilbert Wauchope in Goddifcroft; committit be him and vmq^{le} Thomas Richiesoune in Cokburnespthescheillis, in the moneth of August lastbypast.

Compeirit Sir Thomas Hammiltoun of Bynnie, knycht, aduocat to our fouerane lord, for his hienes entreis, and producet ane Commiffioun, grantit be the Lordis of Secreit Counfall; quhairof the tennour followis.

MY LORDIS of Secreit Counfall, vnto 3our Lordschipis huimlie menis² and schawis 3our lordschipis pur oratrice, Marioun Heislop, the relict of vmq^{le} Gylbert Wauchop in Goddifcroft, Williame Wauchope of Stoddinleuch, broper to pe said vmq^{le} Gylbert. That quhair, vpone pe . . . day of . . . , being ane Sondag, the said vmq^{le} Gylbert wes crewallie and schamefullie Mordreift, vnder fylence and cloud of nycht, haifing naper sword, qulingar nor na vper kynd of wapponis to defend him selff, be Williame Nibbett in Newtounleis and his compliceis, vpon deliberat purpois and foirthocht fellonie: Lykeas, the said Williame being, be his Maiesteis Gaird, tane and apprehendit, with reid-hand, within xxiiij houris eftir pe deceis of pe said vmq^{le} Gylbert, was, be 3our lordschipis ordinance, putt to libertie; he finding caution that he sould compeir pis day, befoir pe Justice, and vnderly pe law for pe said crewall Murthour: To pe quhilk he wes ofbefoir summond, and pat vnder pe payne of thre thousand merkis, the ane haif pairof to his Maiestie and pe vper half to pe pairtie grewit; quha, conforme to 3our lordschipis said ordinance, fand caution to pat effect: And We, being now maist willing to follow out the ordour of law aganis the said Williame, and to pat effect hes summond ane sufficient number of honest men for ane Assyse, the said Williame and his said cautioneris, taking occasioun of his Maiesteis Justice absence furth of pe realme, labouris, be all meanis possible, contrair to all law and

¹ Tan-pit.

² The remainder of the Assise, burgesses.

³ Complains; literally, *moans*.

reafoun, to elude the courfe and ordour of Juftice, and to haif aper the faid dyett defert, that he and his cautioneris may be fred of your lordfchipis ordinance, and frustrat ws of all the effect of our juft perfuit ; or the mater to be continewit, to wearie bayth the perfewaris and pe Affyfe, except your Lordfchipis, quha fufferit him to be fred vpoun caution, haifing committit fo haynous and recent Murthour, provyde remeid, be your lordfchipis Act and ordinance, be eftableiffing, in abfence of pe Juftice ordiner, fum vper Judge, be Commiffioun, for miniftrating juftice in pe faid caus and perfute, or be vper convenient ordour, as beft pleiffis your lordfchipis. HEIRFOIR We moft humblie befeik your honorable lordfchipis, quha is the only mantenaris of juftice and chaftezaris of fic haynous enometeis withiñ pis land, in his Maieftis abfence, to conftitute certane Judge or Judgeis, be Commiffioun, conjunctie and feuerallie, viz. Mr Olipher Colt, younger, Mr James Sandielandis, Mr David Prymrofe, to hauld Juftice Court and miniftrat Juftice in pe faid perfute, that throw inlaik thair of the cours of law and juftice may nocht be eludit and frustrat ; and We that hes our blude spilt and tane, be nocht difappointit of pe ordiner cours of Law and juftice, and your lordfchipis ordinance of finding of Caution be nocht ineffectuall. Accordint to Juftice ; and your lordfchipis anfuer maift humblie we befeik.

[*Sic deliberatur.*] APUD ED^R, xxix Septembris, 1608.—*FLAT Commiffio vt petitur.* And the Lordis Ordanis the Judgeis within writtin, to hauld Court this day, in pe mater within writtin.

(*Sic fubfcribitur*) AL. CANCELLARIUS. LOWTHIANE. ABIRCORNE. JO. PRESTOUNE.

[*Sic notatur infra.*] APUD ED^R, xxix Septembris, 1608.—The quhilk day, in prefens of the lordis of Secreit Counfall, compeirit, perfonallie, Mr Olipher Colt, younger, and Mr David Prymrofe, Aduocattis, and gaif thair aith for doing of Juftice, faithfullie and vprychtlye, in the mater within writtin ; as thay will anfuer to God. J. PRYMROSE.¹

Philp Nifbet of that Ilk and George Lyell, ffar of Stanypeth, vnlawit in the panes of tua thowfeand pundis, for nocht entrie of the faid Williame, &c.

Williame Nifbet ordanit to be denuncet his hienes rebell, &c.

[*Mr Alexander Coluill, Juftice-Depute.*]

Slaughter.

NOV. 9.—ALEXANDER TULLOCHIE, appeirand of Tannacheis, &c.

Johnne Dumbar of Moynes, cautioner for repoirting of the Letteris, purcheft at the inftance of Normand Torrie and remanent bairnes² of vinq^{le} James Torrie, fumtyme in Logiehauch, aganis *Alexander Tulloche, appeirand of Tannacheis, James Tulloche*, his brother, *Williame Cuik*, in Forrefts, *Rorie M^ccoilziechar-char*, alias *Rorie Buffache*, in Mordant, and *Donald M^clauchlane* thair, that thai fould compeir befor the Juftice or his depute this day and place, in the hour of caus, to haif vnderlyne the Law, for the Slauchter of the faid vinq^{le} James Torrie and vinq^{le} Agnes Douglas, his fpoufe, &c.

Compeirit Mr Johnne Dempfter, Aduocat, as procuratour for Johnne Dumbar, quha become cautioner for repoirting of the faidis Letteris ; and allegit, that, nochtwithftanding of the nocht repoirting of the faidis Letteris, deulie execute and indorfat, this day and place, conforme to the Act, that the faid Johnne Dumbar, as

¹ Clerk of the Privy Council.

² Alexander, Walter and Robert.

cautioner, fould nocht be vnlawit ; becaus it is of veritie, that the saidis Letteris, being delyuerit to James Dumbar, Messinger (at arms), to haif charget the defenderis thairin contenit, to haif fund cautioune to haif vnderlyne the Law for the crymes thairin contenit, the fyftene dayis being bypast, within the quhilk the Defenderis fould haif fund cautioun ; Alexander Tulloch, one of the principall defenderis, being joynit in marriage with Iffobell Dumbar, mother to Alexander Dumbar, scheref of Murray, and principall of the cuntrie quhair he duellis, conpyret malicioullie, with the said Scheref, and instigat him to tak and apprehend the said Messinger, be force, put him in waird, and thairby to preuene that he had na power to denunce the said Alexander and his complices to the horne, for nocht finding of the said Cautioun, quhairby the saidis Letteris mycht haif bene formerlie repointit, deulie execute and indorsate to this day : Quhilk Scheref of Murray, vpon the sevint of October last, eftir the charge gevin to the saidis defenderis, be infligatione foirsaid, barbaruslie maid eruptioun in Patrik Dunbaris hous, in Gowfurd, quhair the said Messinger was for the tyme ; entering within the said hous, accompaneit with the said Alexander Tulloche and certane vtheris, to the number of sevyn personis, or thairby, with drawin suordis, assailzeit the said Messinger : and eftir mony outrageous woirdis, affirmeing to tak the saidis Letteris from him, and to bereif him of his lyfe ; ffirst denudit him of his suord, gantiletis, dager and vtheris wapponis, tuik and apprehendit him, perforce, led him captiue to the Castell of Forres, being the said Schereffis awin duelling hous, and sua *carcer privatus*, bot¹ ony lauchfull Warrant : In the quhilk prisson the said Messinger was detenit, maist wranguellie ; luiking at all tymes to haif bene bereft of his lyfe, be the space of ten dayis ; and at last, be intercession of freindis, the said Scheref wald nawayis put the said Messinger to libertie, quhill² he had foret and compellit him to ryve³ our said soueraue lordis Letteris, with the executiones vpon the bak thairof, with his awin handis. Lyk as, the said Messinger, for justifeing the treuth of the said matter, hes raisit his hienes Letteris, be delyuerance of the Lordis of Secreit Counfall, for chargeing the said Scheref and Alexander Tulloche and remanent persones, thair associattis, to ansuer to the said complent. Quhilk allegiance, the said Johnne Dumbar, cautioner foirsaid, offeris him to verifie instantlie, be production of the saidis Letteris, revin ; be the said Messingeris awin Declaratioun, present at the bar, with his ayth of veritie vpon the ryveing thairof, and be the saidis Letteris raisit befor the Counfall, beiring the said complent. In respect quhairof, the said cautioner fould nawayis be vnlawit : At the leift, the Justice can nawayis vnlaw the cautioner, quhill the tryell of the premisses befor the Counfall. And thairupoun, the said procuratour, in name of the said cautioner, askit instrumentis.

¹ Without.² Until.³ Tear in pieces.

THE Justice ordanit the said Johnne Dumbar to be vnlawit in the panes contentit in the Actis of Parliament.¹

[*Mr Alexander Coluill, Justice-Depute.*]

Treasonable Murder under trust, &c.

Nov. 23.—JOHNNE MURE, elder of Auchindrane, and Johnne (James) Mure, younger of Auchindrane.

Dilaitit of airt and pairt of the crymes following, viz. the Auld Laird, for the Slauchter of vmq^{le} Sir Thomas Kennydie of Culzeane, knycht, and vmq^{le} Williame Dalrumpill: And the Young Laird, for airt and pairt of the Slauchter of the said vmq^{le} Williame Dalrumpill.

PERSEWARIS, Sir Thomas Hammilhoun of Bynnie, knycht, Aduocat to our souerane lord for his entreis, Johnne Erle of Caffilis, (Bessie Dalrumpill, as mother.)

PRELOCUTORIS for the pannell, the Laird of Caldwell, The Laird of Bombie, The Laird of Blair Younger, Mr Williame Oliphant, Mr Johnne Ruffell, Williame Mure of Randerstounne.

My lord Aduocat protestis that this dyet may continew, in respect of the grit disorder of this hous, this day; ² vnto the tyme the Justice tak ordour thairwith.

THE Justice continewis this dyet to the last day of November instant; and Ordanis the Laird of Auchindrane elder to be of new committit to waird within the Tolbuith of Edinburgh, and Young Auchindrane to be committit to waird within the Castell of Edinburgh, thairin to remane quhill the said day.

Nov. 30, 1608.—THE Justice, be directioun of the Counfall, continewis this dyet to the thrid day of februlare nixtocum; and Ordanis the pannell to enter to thair wardis of new agane, &c.—Vnto the quilk continuatioun the Lairdis of Auchindrane baith disassentit; and nochtwithstanding thair of, and in respect of thair innocencie of the allegit crymes aboue writtin, offerit thame felfis to the tryall of the Law for the samyn, and thairupon askit instrumentis.

Feb. 3, 1609.³—THE Justice, be command of the Counfall, (continewis) this dyet to the aucht day of februlare nixt.—(Feb. 8, 1609.) THE Justice continewis the dyet to the thrid day of May nixtocum.⁴

Slaughter.

Dec. 21.—ALEXANDER TULLOCHE, appeirand of Tannacheis, and William Cuik in Forres.

¹ This at first sight appears to be a very arbitrary mode of proceeding; but his *recourse* against the party would be reserved entire.

² The influence of these atrocious malefactors was such, that by false representations, and the incessant complaints made by them and their friends to the public, of the oppression of the Lord Advocate, in cruelly delaying their case, though he knew them to be innocent, they succeeded in raising such a popular ferment, that the Court had to be dismissed on this and perhaps on other occasions.

³ Sir Williame Haire officiated as Justice-depute on this and the following diet.

⁴ No farther notice of proceedings before the Court of Justiciary occurs until Jul. 17, 1611.

Dilaitit of airt and pairt of the Slauchter of vmq^{le} James Torrie in Logiehauche, and Agnes Douglas, his spous.—Continewit to the fyftene day of Junij nixt.¹

[*Mr Williame Hairt, Justice-Depute.*]

Forcing—(Rape.)

Dec. 30.—JOHNE ERROLE, cowmone poft.

Dilaitit of the filthie and detestabill cryme of the abufeing and fforceing of Jonet Craig, ane young virgane of xj yeiris of age.

PERSEWAR, Mr Robert Foullis, Aduocat, substitute to our fonerane lordis Aduocat.

DITTAY againft the Pannell.

JOHNE ERROLE, cowmoun poft, 3e ar indyttit and accufet, forfamekill as 3e, haifing fchaiken af all feir of God, reuerance to our fonerane lordis lawis, or regaird to ciuill honeftie, as a diffolute and vyld perfone, ouercum with the beiftlie rage of 3our awin filthie luft, about ane half 3eir fyne, or pairby, to get 3our filthie appetite quenchet, drew acquaintance with Jonet Craig, dochter to vmq^{le} Andro Craig, mercheand burges of Edinburgh, ane honeft manis bairne, and ane 3oung virgane, nocht past the age of elleuin 3eiris; and haifing forgadderit with hir, upone the Hie freit of this burgh, vnderftanding hir to be at the fcole, maift craftillie and vnhoneftlie feducet and tryffit hir to gang with 3ow to Hammiltones clofe-fute, quhair 3e was myndit maift barbaruffie to haif abufet hir; and pan gaif hir certane billis, with vther allureing woirdis, to gang with 3ow: And becaus, at that tyme, 3e gat nocht 3our beiftlie defyre fatisfeit, perfauing the fimplicite of the bairne, and how easlie fcho micht be circumvenit, 3e, a tuentie dayis fyne, or thairby, eftir foure houris at evin, and ringing of the Prayer-Bell, awaitit the faid Jonet at the mercat croce of this burgh, and be geving to hir of apillis and vther frute, of new, agane maift craftillie feducet and intyfet hir to gang with 3ow; quha, vpone bairnlines and meir fimplicite, haifing past with 3ow to Bellis-wynd-heid, 3e tuik hir in to ane bak turnepyke, within the faid wynd, and behind the 3et pairof, maift filthielie forcet pe faid bairne, and did quhat in 3ow lay to haif carnall deilling with hir, and to haif bereft hir of hir virginite: At the quhilk tyme, fcho haifing cryit that 3e crewallie hurt hir, 3e maift barbaruffie and crewallie, to haif 3our filthie appetite fatiat, pat 3our handis vpone hir movth, that hir cryis fould nocht be hard, and pairby stoppit hir braith and almoft fuffocat hir, and had nocht fail3eit to haif filthielie defloirit hir, gif 3e had nocht bene fkarrit be tua wemen at pat instant. Lyk as, 3e, perfeviring in 3our former beiftlie rage of luft, vpone the fevintene day of December instant, being Saterdag, at fyve houris at evin, 3e awaitit, of new agane, the faid Jonet Craig at the mercate croce of this burgh, quhair fcho, with vther honeft menis bairnis war playing thame for pe tyme, and pair, with walnuttis, cheftennes and appillis than gevin be 3ow to hir, 3e maift craftillie feducet pe faid bairne to gang with 3ow; quha haifing refuifet to gang with 3ow, 3e maift forceable harrillit hir down the freit with 3ow; and 3e, being demandit be dyuerfe perfones that met 3ow, quhair 3e was taking hir to, 3e maift diffimulatlie and falſlie gaif thame anfuer, that fcho had bene frome hame all that day, and pat nane of the houſe knew quhair fcho was, and pat pairfoir 3e was taking hir hame; at the quhilk tyme, 3e tuik hir to pe faid bak turnepek in Bellis-Wynd; quhair 3e, aganis pe bairnis will, tuik vp her claithe, and maift filthielie forcet 3our ſelf to haif ado with hir, and wald nocht pairt frome hir quhill 3e gat 3our beiftlie will fatisfeit, and was within hir body; and fcho, haifing in maift pitious maner cryit, that 3e hurt hir, 3e, as ofbefoir, pat 3our hand vpone hir mouth and held in hir braith; quhill is nouttourlie knawin. Lyk as, 3e and pe faid bairne being laithie examinat, in prefens of pe Miniftrie and Magiftrattis of this burgh, 3e and fcho haif confeſſit pe treuth of pe premissis, be 3owr Depoſitionis. Quhairin, 3e haif

¹ No farther notice of this case occurs on the Record. See the preceding case, Nov. 9, 1608.

committit the maist haynous, detestabill and odious cryme of Rapt, Raveifching and Violent fforceing of the said young bairne; the lyk quhairof ancht nocht to be namet within any Cristiane kingdom subiect to a Cristiane Prince, or amang Cristiane people reulit with guid lawis.

The Aduocat, for verifeing of the Dittay, producet the saidis Johnne Errole and Jonet Craigis Depositionis, subfcriuit be his hand, and be certane of the Ministeris and Magistrattis of Edinburgh and Elderis of the Sessioun of the Kirk; and in respect thairof, Protestis for Wilful Errour, in caice the Assyse Acquit.

VERDICT. The Assyse, be the mouth of Williame Trumbill, mercheand in Edinburgh, chancellor, all in ane voce, fstand, pronuncet and declairit the said Johnne Errole to be ffylet, culpable and convict of the fforceing and abuseing of the said bairne, in maner, and at the perticular tymes and places aboue specifeit and fet down in the said Dittay.—SENTENCE. For the quhilk caus, the said Justice-depute, be the mouth of Johnne Lawfone, dempster of Court, decernit and ordanit the said Johnne Errole to be tane to the Castell-hill of this burgh; and thair to be hangit vpone ane gibbet, quhill he be deid; and all his moveabill guidis, gif he ony hes, to be efcheit and inbrocht to our fouerane lordis vse, as culpable and convict of the saidis crymes; quhilk wes pronuncet for dome.

[*Mr Alexander Coluill, Justice-Depute.*]
Stouthcreif—Hurting and Wounding.

Jan. 3, 1609.—JAMES HUNTER of Hagburne.

Dilaitit of airt and pairt of the Steilling of ffourtie pundis furth of Robert Hogis purse, potter in the Potter-Raw (of Edinburgh); committit in the moneth of October, I^m.V^c.lxxxviiij; and Hurting of the said Robert in his heid, and leifing him for deid, at Theyuis corse.¹

PERSEWER, Robert Hog, potter.

Continued to the air of ‘Roxbur^t, tertio Itineris (vel super premonitione) xv dierum.’

[*Sir Williame Hairt of Prestoun, Justice-Depute.*]
Slaughter.

Jan. 31.—ANDRO AIRMESTRANG of the Langholme, Ebbie¹ Airme-strang of Kirktonehill, James Airmestrang of Cannabie, Thomas Airmestrang callit *the Mercheand*, and Johnne Murray, myller in the Cruikis.

Dilaitit of airt and pairt of the slauchter of vmq^{le} James Somervell in Eirdhouffis; committit in the moneth of

PERSEWAR, Robert Somervell, servand to the Laird of Waftraw, as neir kynfman.

PRELOCUTOURIS for the pannell, Mr Laurence McGill, Adame Cunninghame, (Advocates.)

¹ Thieves' Cross. ² Perhaps a clerical error for *Ekkie* (Hector,) a common name in the south at that time. *Habbie* was also a favourite name. It may, however, be a familiar abbreviation for Ebenezer, though the name was unusual among the Armstrongs, whereas Ekkie was very prevalent.

The perfewar declairis, that at the raising of thir Letteris, informatioun was gevin to him that the personis aboue writtin, presentlie enterit vpone pannell, war culpable of the Slauchter aboue specifeit; and now, senfyne, he is certanelie informet, that thai, nor name of thame, war present at the committing thair of: In respect quhairof, and that thai ar altogidder Innocent of the said cryme, he passis *simpliciter* fra the perfute. Quhairvpoune the saidis persones on pannell and thair prelocutouris askit instrumentis.

[CURIA JUSTICIARIE, *f. d. n. Regis, tenta in Pretorio de ST ANDROIS, decimo Marcij 1609, per Dominum Willielmum Haire de Prestoun, Justiciarium deputatum principalem.*]

ASSESSOURIS.

The Erll of Dumbar, ¹	The Erll of Montroise, ²	The Erll of Lowtheane, ³
The Collectour, ⁴	The Clark of Register, ⁵	My Lord Previe Seill, ⁶
My Lord of Wrychtislandis, ⁷	Sir Robert Meluile of Murdocarny. ⁸	

Treason—Corresponding with the Pope, in the King's name.

[THE history of (Sir James Elphinston) LORD BALMERINOC'S TREASON has been so fully related by *Spottiswood, Johnstone, Calderwood, Robertson, Laing, &c.* and by *Mr Wood*, in his edition of *Douglas's Peerage and History of the Parish of Cramond*, that it only seems necessary for the Editor to supply the real facts, so far as they appear on the face of the Criminal Records; and further, by way of Appendix, to give a few authentic Letters, and other documents, which have been preserved.

Whatever may have been the real or alleged participation of this eminent Lawyer and Statesman in this Treason, it seems clear, as *Laing* remarks, that 'if Balmerino deceived his master, it was neither with a criminal intention, nor to a treasonable extent. But his ruin was secretly projected by Spottiswood, Dunbar, and Cecil, his implacable enemies; and, according to his own Narrative, much address and many secret intrigues were employed to persuade him, by a more ample and explicit Declaration, to exculpate the King. His life and estate were secured by promises; his offices were to remain at the King's disposal; and, on these conditions, he acknowledged that the Letter was surreptitiously obtained, when James had refused to correspond with the Romish See.' Thus, in order that he might fully exonerate the King, this unfortunate Nobleman was led into the fatal snare, and confessed *more* than the truth; under the full expectation, doubtless, that not only would the Royal promise of sparing his life and fortune be observed, but that he would, after a short period of retirement from the Court, be reinstated in all his lucrative and honourable offices.

It may be proper to remark, briefly, that SIR JAMES ELPHINSTON was the third son of Robert third Lord Elphinston. He was successively a Lord of Session (Lord Innernochtie), one of the Commissioners of the Treasury, called 'THE OCTAVIANS,' Secretary of State, and, Feb. 20, 1604, was

¹ Sir George Home, Lord High Treasurer of Scotland, was created Baron Home of Berwick, Jul. 7, 1604, (English Peerage,) and Earl of Dunbar, in Scotland, 3 Jul. 1605. This celebrated person was also Chancellor of Exchequer, in England. The King employed him as the chief leader in the restoration of Episcopacy in Scotland, in the Parliament at Perth, Jul. 9, 1606; for which service, and for acting as High Commissioner to the General Assembly of the Church of Scotland, in a manner highly acceptable to the King, he was installed a Knight of the Garter, May 20, 1609.

² John fourth Earl of Montrose, afterwards President of the Council, married Margaret, eldest daughter of William first Earl of Gowrie. It was this nobleman who fought the remarkable combat with Sir James Sandilands, 19 Jan. 1695, at the salt-tron of Edinburgh, as recorded by Birrel. See Diary, p. 34.

³ Robert second Earl of Lothian, who, when Master of Newbottle, had been Master of Requests to King James VI. ⁴ 'Mr Johane Prestounne of Pennycuke.'

⁵ Sir John Skene of Curriehill. ⁶ Sir Richard Cockburn of Clerkington. ⁷ Sir Lewis Craig, one of the Ordinary Lords of Session. ⁸ Sir Robert M. 'of Brint Iland' is named in *Reg. Mag. Sig.* They were both Extraordinary Lords of Session.

created Lord Balmerinoch. In the same year he was nominated one of the Commissioners to treat for an Union with England; and on March 6, 1605, was appointed Lord President of the Court of Session. Notwithstanding of his holding, at the same time, the 'incompatible offices' of Lord President of the Court of Session and Secretary of State, (which, however, were in like manner enjoyed by his successor, Sir Thomas Hamilton, afterwards Earl of Haddington, &c.) 'yet he stemmed the secret and corrupt influence of Dunbar, on the bench, with a spirit that probably accelerated his fall.'¹

The sentence of death, as is well known, was not carried into execution. His Lordship was allowed 'Free-ward' in Falkland, and within one mile around that place. Having endured this nominal restraint for a short time, he was permitted to retire to Balmerinoch, his own estate, where he lingered about three years, and at length died, of a broken heart, A.D. 1612.

His son, John Lord Balmerinoch, was formally restored in blood, and to the dignity of the Peerage, by writ, under the Great Seal.²

Mar. 10.—JAMES LORD OF BALMIRRIENOCH.

Dilaitit of the treffonabill, fraudulent, and surreptitious procureing of ane LETTER, past be his Maiefties hand, without his hienes knowledge, direct to Pope Clement the Aucht, in the 3eir of God 1598, treffonabillie adding (eftir the sub-scription of the said Letter) of the styles of 'SANCTITAS' and 'FILIVS' to the said Letter; and treffonabillie affixing his Maiefties Signet thairto; committit in the yeir of God 1598, or thairby: And treffonabill affixing Sir Eduard Drummond, in his treffonabill trafficking, for the advancement of Papist courfes, at the tyme forsaid.

DITTAY against James Lord Balmerinoch.

JAMES LORD BALMIRRIENOCH, ye ar indytit and accuset of the crymes of Leafmaiestie and Heich-Treffone following. Forfamekill as, 3e, being honouret and advancet be his Maieftie, nocht only to heich and eminent places in Sessioun and Counfall, bot also trustit with the office of Principall Secretarie to his hienes, quhairby ye war in dewtie bund, aboue all vthers, to haif bene most cairfull of his Maiefties honour and preservatioun; nochtwithstanding quhairof, ye, preferring your awin vndewtifull and vnlawchfull privat respectis, to his Maiefties reputatioun and fastie, and being informat, in the yeir of God 1^m. V^c. four-coir aughtene yeiris, by your neir kynsman, Sir Eduard Drummond,³ [quhome ye knew to be ane professit Papist, maist ferventlie affected to the furtherance of all Papische courfes, and to haif bene ane Secretare to ane Cardinall at Rome, and thairfor the vnfitter to haif bene maid chofe of and trustit by yow, for wryting or playing the clerkis office to his Maiefties Letteris directit that way,] that he come to this cuntrie, directit be the Bischope of Vaison,⁴ to deall for procureing of his Maiefties Letteris of recommen-

¹ *Laing's Hist.* III. 57.

² See *REHABILITATIO, Reg. Mag. Sig. Lib.* XLVIII. No. 152, dated August 4, 1613.

³ Marjory, the second daughter of Alexander second Lord Elphinstoun, and paternal aunt of James, first Lord Balmerinoch, married Sir Robert Drummond of Carnock. Sir Edward was perhaps her son, and cousin german of Lord Balmerinoch. ⁴ *Robertson*, in *History of Scotland*, and *Wood*, in *Peerage of Scotland*, call him *Drummond*; but he was William *Chisholme*, 2d of the name and surname, Bishop of Vaison, and paternal nephew of the 1st, who had, a short while after 1561, been, by Papal Brief, created Bishop of Dunblane; and on his finding it inexpedient to live in Scotland, he was appointed Bishop of Vaison; which situation he resigned, in favour of his nephew, when he became a Carthusian Friar of Grenoble. Both of these distinguished Churchmen were younger sons of the Cromlix family, Perthshire. Sir James Chisholme of Dundurn and Cromlix, who was concerned in the Popish Plot, in 1593, seems (*Balfour's Annales*, II. 29) to have been brother of the younger of the Bishops of Vaison. The Chisholmes of Cromlix had, above a century, been hereditary Baillies and Justiciaries of the Ecclesiastical Lordship of Dunblane, and had furnished three Bishops of Dunblane; James and William Chisholmes, brothers, and their nephew William Chisholme, the elder of the Bishops of Vaison above mentioned. William Chisholme *tertius*, was kinsman of Sir Edward Drummond and of Lord Balmerinoch, though in what degree is unknown.—The Editor is indebted to the industry and research of the Reverend Mr MacGregor-Stirling for the information contained in the preceding Note. That learned gentleman has collected much original matter relative to the See of Dunblane, which it is hoped he may, some time, be induced to lay before the public.

datioun to Pope Clement the Aucht, for making the said Bischope ane Cardinall ; being in grit hoip that his Maiesteis recommendatioun to the said place wald be ane grit furtherance to that his expected promotioun : YE, nochttheles, nocht only treffonabillie assenting to the said motioun, bot most willingly and readelie taking vpon you to be ane assister to him in that imployment, did dyuerse tymes prease his Maiestie thairin, and did offer to his hienes the frame of fuche ane Letter as ye wald haif had signed, by his Maiestie, to the Pope ; whome yow fand, nocht only vnwilling to wryte at all, bot absolutelie to condampne the motioun for correspondence with such ane persone ; who, alaweill in respect of the irreconceillabill contrarietie betwix his Maiestie (in respect of his professioun in Religionn) and the Pope ; as also, for that the said Pope could nocht bot expect those tytillis and attributtis whiche his Maiestie, out of his conscience, could nocht yeild him, for any cause quhatsoever : YE, neuertheles, nocht desisting frome your vndewtiefull instance, replyit to his Maiestie, most craftillie, ‘ that quhateuir schew of discontentment his Maiestie vtterit against Puritanes, ye could persaeue nathing bot his Maiestie wald turne mair preceise nor any of thame ! ’ Thairby, as it war, spurring his Maiestie to inclyne to such ane politique course, which none bot foolische or preceise sottis wald refus to imbrace : And nochtwithstanding of his Maiesteis oftin and flat denyallis, and refusallis to harken to your motiounne, ye nocht only desistit nocht, (as ye aucht to haif done,) bot still resoluēt to prosecute your treffonabill intent : WHEARVONE, ye conspyret with the said Eduard Drummond, vpon the meaynes how to dissaue and beguyle his Maiestie, in the procureing of fuche ane Letter, and did devyse and cause to be drawn vp fuche ane Letter, with the said Sir Eduard Drummond hand, as frome his Maiestie to the Pope, expresseing thairin thankis for the Pope’s kyndnes and favour, in former tymes, [albeit ye knew in your conscience that his Maiestie nevir had any deilling with the Pope, nather had he eur expected, requyred, or reslaueit ony kynd of fauour frome him,] subioyning thairto ane recommendatioun of the Bischope of Vaizon to be ane Cardinall ; thairby to be the moir able to further him in all his effairis ; [nochtwithstanding that your self, best of all vtheris did vnderstand, by the most constant answervis gevin, at all tymes, by his Maiestie, to your frequent and importune persuasions in that purpois, that his Maiestie wald nevir consent to haif any dealing or correspondence with him,] and quhat forder woirdis of compliment or specious promeissis vpon his Maiesteis behalf yow did insert in that Letter, [as weill appeiris yow did] by thease woirdis of that pamphlet of Tortus,¹ (quibus preter caetera) your self best knawis. AND for the better conveyance and passage of this Letter by his Maiesteis hand, yow did contriue this course ; *first*, that it should be schittit in amangst dyuerse vtheris Letteris to be signed ; *secondlie*, that the same, with the rest, should be presented to his Maiestie, at sum tyme of his going out haistilie to the hunting, so as, being on the suddane surprysed, he should haif no lasour to obserue and peruse the Letteris ; and, *thirdlie*, that such woirdis of tytill and style as ar vsuallie gevin to the Pope, should be forborne to be set down in it, lest perhappis his Maiesteis eye lichting vpon ony of thame whilles he war signeing, he might thairby tak occasioun to obserue that Lettre, and so discover your fraud ; and convenient spaces being left for thame, thay should efterwardis be accomodatit and insert : ACCORDING to quich course, ye, abusing the trust reposit in yow be his Maiestie, ane day, in the moirning, quhen his Maiestie was going to hunting, in haist, eftir that ye had excusit your self of cuning to truble his Maiestie with the signeing of any Lettres, att so vnseasonabill ane hour, in respect, as ye informit his Maiesteis, Sir Edward Drummondis stay any langar in the country wald bot irritat the Ministeris, and breid occasioun of jealousie and fals and scandalous bruiteis ;²

¹ This alludes to the reply by CARDINAL BELLARMINE, under the feigned signature of MATTHEUS TORTUS, to a book published by King James, anno 1607, under this Title, ‘ TRIPLICI NODO TRIPLEX CUNEO, or an Apology for the Oath of Allegiance against two Brieves of POPE PAUL V., and the late LETTER of Cardinal Bellarmine to Blackwall the Arch-priest.’ In this reply, the King is accused of having abandoned his former sentiments, in favour of the Roman Catholic Religion ; and the Letter to Pope Clement VIII. is quoted, in proof, by his antagonists, who assert, that Lord Balmerino fell a victim to the King’s crooked policy, and that that able and distinguished Nobleman had been induced, through his devoted attachment to his royal master, to criminate himself, in a matter wherein he was really innocent, having merely acted by the King’s express instructions.

² Reports. Fr. bruit.

and thairfore, that ye wer forceit, att that tyme, to present his Dispatch to be signet by his Maieftie, contening no thing, bot sum two or thrie Letteris, in Latine, to the Duikis of Florence, Savoy, and such vtheris, in the said Bischopes recommendatioun¹: And thane, in place thairof, ye did present the said Letter to the Pope, and vther thrie, to fa many Cardinallis in Rome; and procureit the famin to be signed, in place of thais vther Letteris, quhich only feruit for youre cloik, in the convoy of that buffines: Quhilk being done, Sir Edward Drummond, by your directioun, did efterwardis add and insert the Popes tytillis and styles, boith in the beginning of the Letter and in the end thairof, betwix the Letter itt self and his Maieftieis subscrption, as the word '*Sanctitas*,' and the word '*Filius*,' and such vtheris as ye thocht proper for the Letter to the Pope, (quhich verry twa wordis of '*Sanctitas*' and '*Filius*,' his Maieftie had oftin before forewairnit yow, that he wald rather loife his lyffe than wryte any of thame to the Pope): AND, be your directionne, the Letter being closet by ane of your seruandis,² his Maieftieis Signet (quhairf the keping wes committit to yow, be vertew of youre Office of Secretarie,) wes by yow, aganis the honour and dewtie of your place, trust, and credite reposit in yow be his Maieftie, most vndewtfullie, fallie and tressonablie affixit to your said forgeit Letter.³ BE occasioun quhairf, quhen his Maieftie cam efterwardis in questioun, in the lait Quene of Ingland, of blissit memorie, hir tyme, by meanis of hir Ambassadoure, quho, in the 5eir of God 1^m. VI^{te}. yeiris, expostulatit with his Maieftie concerning such ane Letter writtin by him to the Pope; ye than, being alkit thairf be his Maieftie, did vterlie deny thair wes any such mater: Lyke as, for justificatioun of your denyall, ye fend Sir Edward Drummond, quho, att your desyre, being cum from beyond sea to this countrey, and being examinat thairf, did, att your perswasoun, deny that he careit any such Letter to the Pope: As alwa, quhen Sir Edward Drummond wes committit to waird for this caus, within the Castell of Edinburgh, ye becam ane ernist suiter to his Maieftie for his libbertie, and wes the meanis to obtene itt; quhairvpoun the said Sir Edward being efterwardis to returne to Rome, ye delt ernistlie and instantlie with him, to lawboure to recover agane the said Letter to his handis, and to distroy itt; quhich he promesit to do, gif be any meanis he could: And ye lykewyse gaif his Maieftie full and absolute affurance, that that repoint, quhairvpoun the said lait Quene of so wordie⁴ memorie did expostulat with his Maieftie, wes vterlie fals: And that nather his Maieftie had ewir writtin any Letter to the Pope, nor yet that Sir Edward Drummond had ewir delyuerit any, in his Maieftieis name, to him: Quhilk strong denyall, to his Maieftie, of your and Sir Edward Drummondis giltynes in that mater, wes the occasioun that movit his Maieftie to grant to Sir Edward Drummond his libertie: And althocht that the constant sinceritie of his Maieftieis professioun in Religioun wes so weill knawin to the world, by his daylie word, writt, and praktise, as nather that lait Quene of happie memorie, nor the religious people of the Estait of Ingland did any langer dout of his Maieftieis innocence in this caice, howfone thay had hard of his Maieftieis denyall thairf, (as he mycht most justlie haif done,) yit lay it nocht in your handis; bot, gif God had not movit thair heart to judge so honorablie and justlie of his Maieftie in this caice, the jealousie and mistrust of his Maieftieis sinceritie in Religioun, being thus spred, in both realmes, mycht haue reffaut such ineres and grouth, as mycht haif hafardit thairby, alsweill the present securitie of his Maieftieis persoun and estait, att that tyme; as also, his Maieftieis happie attening to his just clame and rycht, in Ingland: THE ground of all this calumny and sklander, and quhatsumewir such lyk hafardis mycht haif followit heirvpoun to his Maieftieis persoun and estait, arryng and having the only fundatioun by this your occasioun and tressonabill dealing, quhilk weill apperit by the consequent; ffor how fone it pleisit God to call that Quene, of renownit remembrance, to his mercie, and his Maief-

¹ Had such a warm debate and altercation, as that before recited, taken place, is it to be conceived as at all likely, that a person of James's jealous disposition, would have signed such Dispatches and Recommendatory Letters, without first carefully perusing and scanning every phrase contained in them? Unquestionably the King would either have postponed his hunting, or, at least, would have desired the papers to await his return, when he could at leisure consider the import of such important documents. On the other hand, it must be admitted, that the Confession of Lord B. is unqualified, and apparently sincere, and is conceived in the strongest terms which language could devise.

² Clerks to the Secretary of State.

³ Dated at Holyroodhouse, Sep. 24, 1599.

⁴ Worthy.

tie to the lauchfull poffeffioun of his rychteous inheritance, with moir perfyte ioy and vninerfall applaufe of all his fubiectis, nor any vther Prince obtenuit the poffeffioun of his prediceffouris Croun, his Maieftie, alſweill by his ſincere profeffion as by his actionis and lawes, publeiſſing to the world his moſt conſtant zeale to mantene and propagat the trew Religioune, and to ſuppres Papiſtrie, and all contrarie profeffion, the hoill Papiſtis within this Ile, and ſpeciallie, in his hienes Kingdome of Ingland, finding thairby thame ſelffis vterlie diſapointit of thair former hoipes, foundit vpoun thais Letteris, quhairby thay promeit to thame ſelffis all libertie and tolleratioun of thair ſuperſtitious, in his Maieſteis dominiounis; and eſteming, that his Maieſtie, in nocht performing thair of, had delt wrongfullie and vniuſtly with thame, nocht only did Clark and Watſoun and thair complices, Preiſts, and vtheris Papiſtis, in the fyrſt yeur of his Maieſteis regime of Ingland, conſpyre aganis his lyffe, poſteritie and eſtait, bot alſo the incomparable CONSPIRACIE of the POWDER TRESSOUN (exceeding in malice and crewaltie all vther Treſſounis, that euir wes attemptit, in any aige or countrey) wes deuyſit and proſequitit by ane damnit crew of merciles Papiſtis, to the extreame danger of his Maieſteis moſt ſacred perſoun, his moſt gracions Quene, thair Royall iſſew and hoill body of that Eſtait; for no vther quarrell, bot becaus thay thocht thame ſelffis wrongit by his Maieſtie, for nocht accompliſching the hoipis geuin by thais Letteris to all Papiſtis in his dominiounis: Lyke as, ſenſyne, Cardinal Bellermine, or *Matheus Tortus*, his chaplain, and vtheris, moſt impudent and infamous Popiſch wryteris, haif, (ſa far as in thame lay,) preiſſit by thair fals, calumnious and leing lybellis, groundit vpoun your treſſonabill Letteris ſoirſaidis, to ſteingie (ſully, *stain*) his Maieſteis moſt pure, perfyte and vniſpotted reputatioun. OFF the quhilkis treſſonabill crymes aboue writtin, of ſurreptitious, fraudulent and fals ſteling his Maieſteis hand to the ſaid Letter, withont his Maieſteis knowlege, and contrarie to his Maieſteis declarit will, and treſſonabill affixing of his Maieſteis Signet to the ſaid fals Letter, and aſſiſting knawin profeſſit Papiſtis, in thair treſſonable confis, to the danger of ſubuerſioun of Religioune and overthrow of all trew profeſſouris thair of; and drawing his Maieſteis lyff, eſtait, Croun of this realm, with his rycht of ſucceſſioun to the Croun of Ingland in moſt extreme perrell, and bringing moſt fals and ſcandalous imputatiounis to his Maieſtie, both in poynt of honour and Religioune, ye ar airt and pairt: And the ſamin hes bene done and committit by yow, and vtheris in your name, of your cauſing, command, aſſiſtance and ratihabitoun. For the quhilkis treſſonabill crymes ſoirſaidis, ye aucht and ſould be pwneſſit, be ſforſaltrie of your lyffe, landis, and guidis to his Maieſtie; according to the Lawis and practik of this realme.

THE ſaid James Lord Balmirrenoch, being inquyret be the Juſtice, gif he wald deſyre the aſſiſtance of any freindis or Aduocattis to be his preloquuntouris, according to the benefite of the law and ordour of the Court, quhilke ſould be obſeruit to him? He anſwerit, that he had neuer ſa grit neid of preloquuntouris and (ſa) grit neceſſitie to ſpeik; the caus being ſic as concernis his lyffe, his eſtait, and all that he poſſeſt; bot he ſaid, he had gritar neceſſitie to keip ſilence, his offence being ſik as could admitt na excuſe; and his greif and ſorrow, that he could haif ſa far abuſit the truſt his moſt gracions Souerane reposit in him, being ſa grit, as he deſyrit na thing mair, than his cryme may be notiſeit to all men: And ſeing, na freind wes acquent with his fact, he deſyrit nane to ſee the miſerie thair of: And ſaid, he could deſyre na Laweir to compeir and defend that fact, quhilke him ſelff had ſa oft and juſtly condemnnet; as no place wes left to him nor any vther, to uſe any defence thairin: And thairfoir, his awin haert witneſſing moir aganis him nor any vther could ſay, he deſyrit all men to knaw his cryme to be als haynous as it is; and did erniſtly intreat all thais that wer preſent, and wiſſit that all the world mycht heir him, to declair two poyntis,

quhairof he wiffis his Maieftie to be cleirit : *ffyrft*, of all fufpicioun that his Maieftie was ony wayis acquent with the wryting of that unhappie Letter, that fwa his hienes innocencie and finceritie mycht be knawin to the haill warld ; ffor he declarit, as he wald wif God to be mercifull to his faull, in the grit day, that his Maieftie wes moft falllie and vniuftlie chargeit with that Letter writtin to the Paip ; and that he could newir draw his Maieftie to lyk, or with patience to heir of that wickit motioun ; bot his Maieftie did vterlie and abfolutlie refufe, vpoun ony refpect or condition, to wryte to the Pope, as ane mater altogidder aganis his confcience to tak ony fic cruikit courfis, or to gif to the Paip thais ftyles and attributes quhilk the Paip affumit to him felf. Quhilk refusall could nocht fatisfie nor content him, bot in his politik warldlie reach, as ane naturall man, he went fordwart, in his awin vayne confait, aganis his Maiefteis declarit will, to that quhilk he thocht fould (have) advanceit his Maiefteis tytill, as hoping thairby to ftay the censure of the Paippis Excommunication, intentit aganis his hienes, quhilk he ferit mycht haif brocht him preiudice to his Maiefteis fuffeffioun, nor yit could he be ftayit from his unhappie courfis, by his Maiefteis moft religious refolution ; quha, att findrie tymes, proteftit and declarit to him, that his hienes wald nevir burdene his confcience with ony fic vnlanchfull and cruiket courfis, bot wald only leane and refte vpoun Godis Providence and his awin rycht, with fic vther lauchfull and rycht meanis as his Maieftie mycht iuftlie vfe : Befekand all gentilmen and vtheris prefent, to beir trew recoird of his Confeffioun of fa haynous ane offence, committit aganis fa grations and bountyfull ane Souerane, quho, be his vnderfervit fauour, had raifit his bafe fortoun fa bountifullie, that his landis, guidis and lyffe could be na reparatioun for fa grit ane offence.

The *fecund* poynt, quhairof he defyrit his Maieftie mycht be fred and cleirit, is ane opinioun, quhich ather fum in malice, or his freindis in the commiferatioun of his eftait, mycht confaue and think, that his Maieftie, in ane mater of this moment, (the fuffeffioun of ane Letter of Recommendation,) mycht ferne to proceid with grit regoure and crewaltie aganis his lyffe and eftait ; bot he wald haue thais and all vtheris to remember, that his Maieftie hes gevin mony testimoneis of his clemencie, in materis gritlie concerning him ; and thairfore, thay fould nocht judge of his Maiefteis difpofitioun to mercie, by his hienes proceiding, be iuftice, aganis him, bot wiffit thame rather to turne thair eis to his unhappines, quha hes offendit his fared Maieftie, in fic ane poynt, as na fauour can be extendit to him, without the hurt and interes of his Maiefteis honour, quhilk being deirar to his hienes than his lyffe, he man think and confels, that tuentie thowfand fic lyves as his is, ar nocht to be compairit with it, or ballanceit aganis it ; nor did he defyre that his lyffe fould be fpairit, att fa deir ane rait as the leift tuich (Fr. *tache*) of his Maiefteis honour.

Forder, he cravit pardoun to proteft thais tua thingis, for him felff. *Fyrst*, that he had na sic intentione, as sum hes fupposit, to draw in ony alteration of Religioun or tolleratioun, or quhat thay pleis to terme it; bot any meane warldlie courfe and devyfe, quhilk he confaitit mycht be for the behuif of his Maieftie, quhilk he proteftit to be of treuth. The *fecund* thing is, he wald haif na man to think, that itt wes any gayne or priuat commoditie that drew him to that wicket cours; ffor he proteftit that he nevir reffauit norexpected ony reward, from ony Prince leving, except from the Kingis Maieftie, his maifter, allanerlie.

And fa concludit, that he had fpokin fa much of the treuth aganis him felff, that he wald defyre na man to fpeik for him; and wald gif als littill buffines to the Aduocat, Juftice, Affeffouris and Affyfe, as he could; and was content that the Dittay fould pas to the knowlege of ane Affyfe.

IN refpect of the quhilkis, THE JUSTICE Ordanit the faid Dittay to be putt to the knowlege of ane Affyfe, of the perfonis following. Thay ar to fay.

ASSISA.

DAVID ERLL OF CRAUFURD, Lord Lyndefay, &c.	JOHNE ERLL OF TULLIBAR- DIN, Lord Murray,	SIR ROBERT GORDOUN of Lochinvar, knycht,
GEORGE ERLL OF MARSCHELL, Lord Keith and Altrie, Grit Marfchell of Scotland, &c.,	ALLANE LORD CATHCART, JOHNE LORD SALTOUNE, DAVID LORD SCONE,	SIR WILLIAME LEVING- STOUN of Killyth, knycht,
JOHNE ERLL OF WIGTOUN, Lord Fleming, &c.,	ALEXANDER LORD GARLEIS, WILLIAME MAISTER OF TIL- LYBARDINE,	SIR JOHNE HOUSTOUN of that Ilk, knycht,
PATRIK ERLL OF KINGORNE, Lord Glammes, &c.,	SIR JAMES DOWGLAS of Drum- lanrig, knycht,	SIR PATRICK HOME of Pol- wart, knycht.

Quhilkis perfounnes of Affyfe being chofin, fworne and admittit, and Instru-
mentis tane thairvpoun, be our fouerane lordis Aduocat; the faid James Lord
Balmirrenoch, being accusit be the faid Dittay, oppinlie red in judgement to him,
in prefens of the faid Affyfe; and for verificatioun thair of, the Aduocat, haifing
produceit the faid James Lord Balmirrenochis Depofitioun, fubferyuit with his
hand; togidder with his Letter, writtin all with his hand and fubferyuit be him,
contening his fpeich, vterit be him befor the Lordis of his Maiefteis honorabill
Previe Counfall of Ingland, togidder with ane Letter fend be his Maieftie to the
Aduocat, contening sum of the Lord Balmerinochis fpeichis to his Maieftie, att
sic tyme as he preiffit to haif perfwaidit his hienes to wryte to the Pope: And
the faidis three writtis, being oppinlie red in judgement, in his prefens and in
prefens of the faidis Affyfouris; quhairof the tennour followis.

And fyrft, followis the tennour of HIS DEPOSITIOUN.

ATT FALKLAND, the fecund day of Februar, the yeir of God I^m.Vj^c. and nyne
yeiris. THE DECLARATIOUN and CONFESSIOUN of THE LORD BALMER-
RENOCHE, concerning ANE LETTER fraudulentlie and surreptitiouslie pro-

cureit to be writtin and sent from his Maiestie to POPE CLEMENT (VIII.) in the yeir 1598; maid in presens of my Lordis of his Maiesteis Secreit Counsell of Scotland, eftir namet; The Earles of Dumbair, Wigtoun and Lowtheane, the Lordis of Scone, the Justice Clark, the Collectour, Justice and Aduocat.

THE LORD BALMIRRENOCHIE, being examinat, sworne and chargit with pe offence of praktesing and surreptitious procureing of pe said Letter, (quhairby hath growne ane most fals and scandalous imputatioun to his Maiestie, both in poynt of honour and of Religioun,) eftir diuers meanis vñt by him, of denyall, conceilling, transferring and extenuatting the said offence, doeth att pe last expresse acknowledge and confes: That, in pe 3eir of our Lord 1598, att pe motioun of pe lait Archbisshop of Glasgou,¹ his Maiesteis Ambassadour, than resident in France, the Bisshop of Vaizon,² and sum vtheris, and att pe sollicitatioun of Sir Edward Drummond, directit from jame, for procureing of sum correpondence betuix his Maiestie and THE PAIP, be the said Lord Balmirrenochie, assenting to pe said motioun, did diuers tymes preise his Maiestie pairin, and did offer to his Maiestie the fram of sic ane LETTER as he wald haif had signed be his Maiestie to pe Paip; quhom, quhen he fand nocht onlie vn-willing to wryte att all, bot absolutlie to condem the motioun, or any correpondence with a persoun that did expect thais tyillis and attributes, quich his Maiestie, out of his conscience, could nocht 3eild him, for any caus quhatfumeuir; he, the said Lord Balmirrenochie, conspyring with Sir Edward Drummond, on pe meanis how to dissaue and begyle his Maiestie, in pe procureing such a Letter, with pe said Sir Edward Drummond's hand, as from his Maiestie to pe Paip, expressing pairin (as he sayeth) only thankis for pe Paip's kyndnes and favour, in former tymes, with recommendatioun of pe Bisshop of Voyzin to be a Cardinall; thairby to be moir abill to forder him in all thingis neidfull for his effairis. For the better convoyance and passage of his Letter by his Maiesteis hand, the said Lord Balmirrenochie confesseth this course to haif bene by him contriveit; *fyrrst*, that itt sould be cheftit³ in amangis diueris vperis Letteris to be signed; *secundlie*, that the samin, with the rest, sould be presentit to his Maiestie, att sum tyme of his going furth haistlie, on hunting, so as, being on the sudden surprysit, he sould haif nocht laifour to obserue and peruse the Letteris; and *thryddlie*, that such wordis of tytil and style (as) ar vsuallie gevin to pe Paip, sould be forborne to be sett down in itt; leif perhappis his Maiesteis eé lichting vpone any of jame, quhillis he wer signeing, he mycht pairby tak occasioun to observe that Letter: and that convenient specis being left for jame, thay sould efterwardis be accomodatit and insertit: According to quich course, he the said Lord Balmirrenochie confessing, that he, abusing the trust reposit in him be his Maiestie, one day, in pe moirning, quhen his Maiestie wes going on hunting in haist, amangis vperis Letteris, writtin in Latine, to pe Duikis of Florence and Savoy and sum Cardinallis, in favour of pe Bisshop of Veyzon, did also present to his Maiestie (haveing formerlie refusit to wryte to pe Pope, and na thing suspecting that any such sould be offerit to his hand) the said Letter to pe Paip, and procureit it to be signit; quich being done, he the said Lord Balmirrenochie confessit, that by his directioun, Sir Edward Drummond did efterwardis add and insert the Popes tyillis and styles, baith in pe beginning of pe Letter, and in pe end pairof, betuix the Letter itt self and his Maiesteis subscriptione, as the word '*Sanctitas*' and the word '*ffilius*,' and such vperis as he thoct proper for pe Letter to pe Paip: And that, by his directioun, the Letter wes feilit vp be ane of his seruandis, and the Signet also putt to itt. Concerning pe Letteris to the Cardinallis, he the said Lord Balmirrenochie sayeth, that thay wer cloife sealit vp; bot left without superfeription, and so delyuerit to Sir Edward Drummond, to be directit be pe aduise of the (Arch)bisshop of Glasgw: And that he did efterwardis vnderstand, that two of pe saidis Letteris wer gevin to pe Cardinallis Aldobrandino and

¹ James Beaton, (2d) Abbot of Aberbrothock, elected 1551, quitted the see in 1560, and was restored by Act of Parliament, in 1588. ² William Chisholme. See Note on Dittay, p. 569. ³ Shifted, shuffled.

Bellarmino, and he thrid to Cardinall Caietane, Protectour of the Scottissh Natioun. ffordermore, the said Lord Balmirrenoch Confesseth, that quhen his Maiestie cam efterwardis in questioun, in pe lait Quenis tyme, (by meanis of hir Ambassadour, that expositulattit with his Maiestie, concerning such a Letter writtin from him to the Pope,) he the said Lord Balmirrenoch, being askit pairof by his Maiestie, did vterlie deny that thair was any such mater: And lykwayis Confesseth, that he desyred Sir Edward Drummond (being cum att pat tyme from beyond the Seas, and examinat pairof, vpoun pe Lord Balmirrenochis sending for him,) to iustifie his denyall; and that Sir Edward Drummond did, att his desyre, accordinglie deny that he had careit any such Letter to pe Pope; as also, that quhen Sir Edward Drummond wes committit to preafoun for pis caus, to the Castell of Edinburghe, he the said Lord Balmirrenoch becam ane ernist futear¹ to his Maiestie for his libertie, and wes the meanis to obtene it; quhairvpoun Sir Edward Drummond, being efterwardis to returne to Rome, he the said Lord Balmirrenoch Confessit, that he delt ernestlie and instantlie with Sir Edward Drummond, to laboure to recover agane the said Letter into his handis, and destroy itt; quhilk Sir Edward Drummond promisit to do, gif by any meanis he could; and that the said Lord Balmirrenoch pairvpoun destroyit the copie of pat Letter, quhilk before he had retenit with him self.

J. BALMIRRENO^r.

DUMBAR, WIGTOUN, LOWTHEANE, D. L. SCONE, (R^d) COKBURNE,
S^r TO. HAMMILTOUNE, JO. PRESTOUNE, S^r W^m HAERT.

Followis the tennour of

THE LORD BALMIRRENOCHES LETTER, *writtin and subscriuit be him, con-
taining his SPEICHES, vttered be him to the Lordis of his hienes Previe
Counsail, in Ingland.*

MY VERRIE HONORABLE LORDIS,

I FIND trew this day, in experience, that which I haif oft red and hard, that no exceiding joy nor exceiding sorrow can be cayried bot with silence. *Leues curæ loquuntur* (sayeth the tragique) *ingentes stupent*. From this it is that pe heaue greif and vnspeikable sorrow of my hart and soul, for my haynous offence aganis my most gracious Souerane, and his Maiesteis displeasour that he bes most iustlie conceaved aganist me, makis me that I haif no wordis whearwith I can expres pe same: Quhen I luik vnto his Maiesteis innumerabill fauoris bestowed vpone me, haifing raised my fortunies (most miserable and vnworthie wretch!) far aboue my mereit and my foule abuse of his Maiesteis trust: which hes brocht this fals imputatioun vpone his Maiesteis vnsported innocencie: I think pair is nothing in me may amend the same; and pairfoir I find no vther end of my sorrow, bot, with the forlorne sone,² to say to his most sacred Maiestie, *peccavi in cælum et in terram!*—My offence is so greit that it can nocht be pardonet,—I am nocht worthie to be rekonet ony moir among his subiectis or createuris! I haif sinceirly confessit the veritie of my fact, in all the circumstances, nocht for obedience, or to liberat his Maiestie, (as sum wald fallie geve out,) bot for pe treuthes saik, and that his Maiesteis innocencie may be knawin to all the world: Bot allace! what vnhappie man was I, that my devilisch affectioun and erroneous course sould haif led to ony thing sould haif offendit my most gracious Souerane! Nicht nocht his Maiesteis rair pietie, singuler wisdome, and vnsported sinceritie, in all his actiones, whearof I had so long experience, taucht me, that quhen his Maiestie was vnwilling, and did refuis suche ane cruikit wordli³ course, the event of it could nocht prove bot vnhappie! Thairfoir, since his Maiesteis soule is frie of it, let no pairt of the slayne ly vpone his Maiesteis honour; bot, gene⁴ his Maiestie can nocht vtherwayis be liberat of this imputatioun brocht vpone his Maiestie by that devillisch Letter, let naper my lyfe, my estait nor credeit be spared; bot, as I haif all by his Maiesteis fauour, so, let all go, to the last drope of my bloode, befoir any reproche for my most haynous offence sould be broght vpone his innocent Maiestie: Bot my miserie, aboue all, is pe gritter, that it behoved me

¹ Suitor.

² The Prodigal Son in the Parable.

³ Worldly.

⁴ Gif, if.

offend evin in that point whairin his Maiestie hes ever bene most tender, his conscience, which for ane thowfeand kingdomes he wald nocht hurt, and his reputatioun for sinceir deilling, quhilk hes maid him famous throw all the world! In all thease, his Maieftis extraordinier delyuerances, miraculoufflie wrocht be God, for no caufe so muche as for his Maieftis incomparable sinceritie of heart to God, and just dealing to all the world. My Lordis, it fall nocht be necessar to transmit my Confessioun to Scotland, or to remit my judgement or tryell pair, fence for my offence, and his Maieftis displeafour confaut pairupoun, I haif absolutelie submitted my self in his Maieftis royall will. I raper¹ my life and all war takin, befor I fould ly any longer vnder this most importable² burding of his Maieftis heave displeafour. Thairfor, my humbill sute to your lordschipis is, that ze will, in commiseratioun of my miserabl eſtair, move his Maieſtie to be plesed to luikie vpone my Confessioun, accept my becoming in will, and but³ more delay, declair what oucht be done for reparatioun of his Maieftis honour, which, to my greit greif, is tuiched be my most haynous offence; which, in all reuerance and humilitie, evin with the last drope of my bloode, I will obey and performe.

J. BALMERINO⁴.

Followis the tennour of the

LETTER *ſend be HIS MAIESTIE to my LORD ADUOCAT, anent THE CONFERENCE betuix his Maieſtie and the Lord Balmerinoche, befor the purcheffing⁴ of his hiegnes ſubſcriptioun to the LETTER to the POPE.*

TO OUR truſtie and weilbelouit Counſalour, SIR THOMAS HAMMILTOUN
of Bynnie, kny^t, our Aduocat, in that our Kingdome of Scotland,
JAMES R.

TRUSTIE and weilbelouit counſalour, Wee greit zow weill. Quhairas, We haif concludit to haif pe Lord Balmirrenoche tryed before certane our Juſtices, by Commiſſioun, vpoun that his moſt treſſonabill and damnabill fact, committed by him, in the thiſteous purcheffing and ſteilling throwch of Letteris, vnder our hand, directed to THE POPE OF ROME; We nocht being of pe knowlege pair of; bot vtherwayis, vpoun his moving of pat mater vnto ws, wer altogidder diſaffenting pairfrome: We haif thocht mete, (for your better informatioun and gritar licht in pis matter, and to pe effect that zow may pairvpoun ground your Dittay, and in his accuſatioun vrge the ſame as ane particular evidence of his giltines heirin,) to ſett down, ſo far as our memorie can ſerue, the verie wordis of pe Conference paſt betuix ws att pat tyme, quhen he moved ws for pat Letter, quich ſo fallſie and vndewtiefullie, without our knowlege, he thaireſtir purchett to be paſt our hand, about ſum nyne or ten zeiris ago. One day, he inſiſted that We wald be pleaſed to wryte a Recommendation to pe Pope, in favouris of pe Biſchop of Vaizon, with a requeſt for promoting of him to pe batt:⁵ He than ſchewit vnto ws, that by the vther⁶ his continewall ſtay att Rome, and by reaſoun of the aduerteiſmentis he wald mak from tyme to tyme, he wald ſerue for a ſpie to acquent ws with quhat courſes they had there; and that therewith, it wald be a greit credite to pe Natioun to haif thair countreyemen Cardinalis: At quich tyme We ſchewed vnto him, that We could nocht, in conſcience, zeild vnto pe Pope thais tytillis quich he did aſſume vnto him ſelf; and that We wald nocht, for any warldlie reſpect, do that, quhair of We had no warand in conſcience: The wryting to pe Pope, in ſuch ſoirt as he wald accept pair of, being vnlauchfull for any trew Criſtiane: Vnto pe quich, We do perſytelie remember, that he did then anſuer, that nochtwithſtanding quhatſoevir ſchew of diſcontentment We vterit aganis Puritanis, he could perceave no thing but We wald turne more preceiſe than any of pame, quha for ſuch a ſmall mater as a naked Letter of Recommendation ſould be ſo ſqueamiſch and nice. He farther added, att pe ſame tyme, that We ſould nocht cair quhat wer done pairin; bot willit ws to leue to Sir Edward

¹ I would rather that my life, &c.

² Unbearable, intolerable.

³ Without farther delay.

⁴ Procuring.

⁵ A Cardinal's hat.

⁶ Viz. By the uninterrupted residence of the Bishop of Vaizon at Rome, &c.

Drummond and him the filling vp of these styles ; and We being ignorant pairof, and done without our knowledge, itt could be no touch¹ nor greif to our conscience : Quhairvnto, We then answert, that as We evir disallowit of all dowble deilling, so We loued nocht that slicht, bot wer resolved nevir to do nor consent to any thing, but quhat We wolde approve before pe hoill worlde : And nochtwithstanding of our reiteraling of our dislyke pairof, zit wes pe famin most thiftioullie past our hand, without our knowlege. And thinking fit to acquent zow with this particuler circumstance, for zour better informatioun, We bid zow farewell : FROM oure Court, att Quhytehall, the 9 Januarye, 1609.

Followis the tennour of,

HIS MAIESTEIS WARRANT *direct to the ASSESSOURIS.*

TO OURE rycht trustie and weil belouit Coufinges and Counfalouris, THE ERLES OF DUMBAR, MONTROISE, LOWTHEAN ; and our trustie and weil belouit Counfalouris, THE LORDIS PREVIE SEALE, THE CLARK OF REGISTER, THE COLLECTOURE, SIR LUEIS CRAIG.
JAMES R.

QUHAIRAS We haif directit our Aduocat to insist in persute of pe Lord Balmirreno^t before our Justice, for his most haynous and detestabill cryme and offence committit aganis ws, our honour and reputatioun, We haif maid speciall choise of zow, in pe foirsaid Tryall, to be Assessoris to pe said Justice : And pairfore We ar to will zow to assist him, and to see justice dewlie ministrat pairin, as ze wald do ws most acceptable seruice : And thir presentis salbe zour Warrant sufficient. GEVIN att Quhytehall, the thryd day of March, 1609.

Followis the tennour of

HIS MAJESTEIS WARRANT *direct to my Lord Aduocat, to persew James Lord Balmirrenoche.*

TO OURE trustie and weilbelouit Counfalour, SIR THOMAS HAMMILTOUN of Bynnie kny^t, our Aduocat, in pat our kingdome of Scotland.

JAMES R.

TRUSTIE and weilbelouit counfalour, We greit zow well. This haynous offence committit by the Lord Balmirreno^t aganis our honour and reputatioun, being so lang conceillit and now laittlie discoverit, movis ws, for the clering of our innocencie, and freithing² owre selffis of thais wrangous imputatiounis quhich We haif hithertill vnderlyne, to geue ordoure for prosequuting his Tryall, befor our Justice, with all regour : And becaus the leif extenuating of jis offence can nocht bot breid in the evill disposit a distrust of his giltines : And We being fullerie auiset by thais of best judgement, heir, concerning the qualitie of pat offence, to find pe samin, insafar as it is done aganis the securitie of pe Prince, a speciall poynt of hie Tressoun and Lesemaiestie ; ffor heirby, nocht only wer We brocht in danger, both in persoun and estait, bot also our honour, credite, and reputatioun, moir deir vnto ws then our lyffe, hes bene by pe fame brocht in questioun : And pairfore, We will zow to vrge the Judgement aganis him, as for a cryme of pe qualitie aboue writtin, that so all exception that may be maid aganis proceeding, aper of collusioun pairin, or in extenuatting the offence, may be removed, that justice may be dewlie ministrat, and our innocencie, so much pairby wrangit, may be heireftir clerit to pe haill world : And perswading our selffis of zour cair, diligence and dexteritie heirin, as ze wald do ws acceptable seruice, We bid zow fairwell. FROM oure Court, at Quhytehall, the nynt of January, 1609.

VERDICT. THE said James Lord Balmirrenoche Confessit the said Dittay, and haill contentis of the writtis foirsaidis ; and thaireftir, the saidis persounes of Assyse removed altogidder furth of Court to the Counsal hous of the said Tolbuith, quhair thay being convenit togidder, fyrst electit and clusit the said

¹ Fr. *Tache*.

² Freeing, absolving.

George Erll Merfchell Lord Keyth and Altrie, grit Marfchell of Scotland, Chancillar of the Affyfe; and thairefter, reafonit and votit vpoun the poyntis of the faid Dittay; and eftir long reafoning thairvpoun, and being throuchlie refolnit thairwith, re-enterit agane in Court, in prefens of my Lord Juftice and his Affeffouris, and the faid James Lord Balmirrenoche; quhair the faidis perfounes of Affyfe, all in ane voce, be the mouth of the faid Chancillar of the faid Affyfe, ffand, pronunceit and declairit the faid James Lord Balmirrenoche to be Giltie of the treffonabill, furreptitious, fraudulent and fals fteling of his Maieftis hand to the Letter fpecifeit in the Dittay, without his Maieftis knowledge, and contrair to his Maieftis declarit will; and of the treffonabill affixing of his Maieftis fignet to the faid fals Letter; and affifting knawin profellit Papiftis in thair treffonabill courfes, to the danger of fubuerfioun of Religioune, and overthrow of all trew profeffouris thair of; and drawing his Maieftis lyffe, eftait, Crown of this realme, with his rycht of fucceffion to the Crown of Ingland, in moft extreme perrell, and bringing moft fals and scandalous imputationis to his Maieftie, both in poynt of honour and Religioune: And of airt and pairt of the haill treffonabill crymes aboue writtin, att lenth contenit in his Dittay aboue fpecifeit,

MARSHALL, *Cancellarius*.

Quhairvpoun Sir Thomas Hammiltoun, Aduocat to our fouerane lord, askit instrumentis.

THAIREFTIR, my lord Juftice, confulting with his Affeffouris, Declarit to the faid James Lord Balmirrenoche, that thay war nocht to proceid ony forder in that buffines, for the prefent, till thay fould knaw his Maieftis forder pleasour: Bot, in the meanetyne, aduifet him to bethink himfelff (haifing fa horribill ane fentence pronunceit aganis him) quhat caice he fluid into, wiffing him to lay his compt with the world, and draw neir to his God.

And thaireftir, gaif commandment to the Capitan of his Maieftis Gaird to convoy his body to his Maieftis waird in Falkland; thairin to be kepit in furetie, as he wald anfuer to his Maieftie, vpoun his dewtie and allegiance.

[CURIA JUSTICIARIE, *f. d. n. Regis, tenta in Pretorio burgi de Edr, primo die mensis Aprilis 1609, per D. Will. Heart de Prestoun, Jusficiarium, &c.*]

Apr. 1.—The quhilk day James Lord Balmirreno^t being presentit on pannell, to heir dome pronunceit aganis him, &c. the faid Juftice produceit the Warrant vnderwrittin.

WARRANT *from his Majesty, for pronouncing DOOM against Lord Balmerinock.*

JAMES R.

SIR WILLIAME HAERT of Prestoun our Juftice, We greit 3ow weill. Forfamekill as James Lord of Balmirreno^t being conuict by ane Affyfe, in ane Court of Jufticiarie hauldin by 3ow, in our

tolbuith of Sanctandrois, the tent day of March instant, of pe treffonabill crymes contenit in his Dittay and convictioun; wes pairvpoun remittit till preiffoun, quhill our forder Will and plefour wer knawin pairin, concerning him: WE have thairfore thocht meit, be pir presentis, to signifie our said pleafour vnto 3ow, quhilk is,—THAT 3ow with all convenient expeditioun cause fens ane Justice-Court, to be hauldin by 3ow in our tolbuith of Edinburgh, and thair Decerne and ordane the said James Lord Balmirreno^t to be taken to pe place of Exeentioun, and pair to be demanit and execute as a Traitour; his heid to be strikin from his body; and all his landis, heretageis, lordschipis, baroneis, takis, fledingis, rowmis, posselliounis, officeis, benificeis, coirnis, cattell, infycht pleneiffing, goodes and geir, to be fforfaltit, efcheit, and inbrocht to our vse, as convict and guyltie of pe saidis treffonabill crymes: Anent pe pronouncing of pe quhich dome, thir presentis salbe 3our Warrant. GEWIN att our Court of Quhytehall, the xxiiij day of March, 1609.

My LORD OF BALMIRRIENOCHIS DOME.

Apr. 1. OUR said fouerane lordis JUSTICE, be the mouth of Andro Quhyte, dempfter of Court, conforme to ane Warrant direct be his Maiestie to him, Decernit and Ordanit the said James of Balmirrienoeche to be tane to the place of his executionn, and thair to be demanit and execute as ane Tratour; and his heid to be strukin frome his body,¹ &c.

DOCUMENTS ILLUSTRATIVE OF LORD BALMERINOCHE'S TRIAL.

I. *EXTRACT from an Anonymous History of Scotland, MS.*²

ANE litill befor this,³ SIR JAMES ELPHINSTOUN, President and Seeretar, went wp to Ingland; quhair he was accusit, in presense of THE KING and *Counsell of Ingland*, for heiche Treffoune aganis his Ma'y, in counterfeitting the Kingis writt, and sending tha famin Letteris of Recommendationis to THE PEAP, by⁴ his Ma'ties knowledge. The quhilk being confessit be him, he was thair disgreidditt⁵ of his honouris quhilk he had befor, as ane off the Counsell of Ingland: And thaireftir, was on the v day of December brocht to Leith; and on the sext day convoyit to Falkland, quhair he remaynit to the 10 day of March, 1609; and thane convoyit to Sanet Androise; quhair, being putt to ane tryall of ane Assyse, was convict: And thaireftir convoyit to Falkland agane; and on the last day of Marche was brocht to Edinbrughe; and on the first day of Apryll brocht to the tolbuith, and thair, befor the Justice, eondannit as ane tratour, and his heid to be strukin off; bot neather the day nor place decernit: Quhairupone, the secund day of Apryll, he is convoyit bak to Falkland, in waird.

II. SIR JAMES BALFOUR'S *contemporary Account.*⁶

IN this same mounthe of Nouember (1608), James Elphinstone Lord Balmerinoche, principall Secretary of Estait to his Maiesteis, for the kingdome of Scotland, being this yeire ehallenged, in England, anent some Letters wrettin be him, in his Maiesties name, to POPE CLEMENT VIII. befor the King did attaine the Croune of England; bot he confessed, (simulatly, as was thought by thesse that wnderstood the Courte, and hou matters then went,) to liberat the King of suche grossnes, being examindd by some Priuey Counsellers of bothe kingdomes; that, in anno 1598, he had wrettin to the Pope, in his Maiesties name, for a Cardinalls hate, to be bestoued one *Chisolme*, a Scotts man, then *Bischope of Weafone* in France, brother to the Laird of Crouneriggis,⁷ in Perthshyre; in which Letter

¹ The terms of the 'Warrant' are repeated here.

² Advocates' Library, A. 4. 35. Folio.

³ This is preceded by the following notice: 'On the aucht day of Nouember, thair wes sik ane earthe quaik, throw mony pairtis of Scotland, as the lyk wes not sein this mony day.'

⁴ Without, past, contrary to.

⁵ Degraded, stripped.

⁶ See his *ANNALES*, vol. ii. p. 29.

⁷ A mistake; *Cromlix* is the proper name.

(he hauing gottin the Kinges hand to it) he styles the Pope '*Beatissime Pater*,' with wther suche phraſes; which almoſt wronged the Kings honor and reputatiōe, with all the Proteſtant Princes and States in Europe.

His trayell and puniſhment (he being a Scotts Nobleman) was remitted to the Juſtice of Scotland; and he ſent home thither, vnder a guard, from thyre to thyre; of all wiche the King adwertifes his Priuey Counſaill of Scotland, the 21 of the mounthe of Nouember, by Spotſwood, Archbiſchope of Glaſgow.

After his arrivell in Scotland, he was firſt imprifoned in Edinburghe Caſtle, and from thence removed to the Tower of Falkland; and arraigned at St Andrewes, in the ſubſequent yeire; and ſentenced to loſſe his head: Bot, by the Kings ſecrett commands to the Earll of Dunbar, he was againe remitted to the cuſtodey of the Lord Scone, as a cloſſe priſſoner, to be kept at Falkland: And from thence was enlarged, and confyned to his auen houſes in Angus thyre, and Balmerinoche in Fyffe thyre; quher he deyed of a fever, and waicknes in his ſtomache, ſome few mounthes after the death of his arch-enemy and competitor, Ceicill Erle of Salisbury¹ (after quhome) if any tyme he had furuiwed, (as was talked by them that beſt knew the Kings mynd) he had beine in grater crydit with his maſter then euer.

III. *EXTRACTS from the Records of the Privy Council of Scotland.*

Mar. 4, 1609. THE Privy Council, 'conſidering that his ſacred Matie hes ſend down his faithfull and worthy counſellour *the Erll of Dunbar* to be aſſiſtant to this Tryall, the ſaidis Lordis findis it verie meete, neceſſar and expedient, for the gittair auctoritie and regaird to be had to that actionn, that the ſaid Erll of Dunbar be accompaneid with a ſufficient number of the Nobilitie and Counſale; for wiche purpois, the ſaidis Lordis hes nominat and appointit David Erll of Craufurd,² &c. to be preſent with the ſaid Erll of Dunbar at the ſaid tryall, commanding thame, in his Maſteſis name, to aſſiſt the ſame tryall, by thair preſence, counſale and adviſe; and ſo to do and performe that which becometh faithfull, worthy and trew counſellouris to do, in a mater ſo heichlie importing his Maieſtie, in his honnoure, fame and credite.'

Mar. 17, 1609. WARRANT commanding the Director of Chancery 'to omitt the ſaid Lord of Balmerinochis name, furth of all ſuche Infeſtmentis, Letteris, writtis and grantis to be paſt and exped the Chancellarie, heirefter, wherein his name formarie hes bene accuſtumat to be infert.'

IV. *EXTRACT from the Earl of Haddington's MS. Collections.*⁴

Mar. 28, 1609. LETTER⁵ from his Matie to the Chancellar, commanding him to ſeaſe the Lord Balmerinois landis, try the rentis thair of, the maner of his purchaſe, and wrongis done be him; to be tryed by indifferent⁶ Counſallouris, that the King nicht tak ordour, for ſatiſfactionn of thoſe quho war wronged.

V. *LETTER from WILLIAM CREICHTOUN, Jeſuite, [to SIR ANDREW MORAY of Balvaird.]*

RIGHT WORSHIPFULL S^r,

My humble and heartlie dewtie remeberit. I haif hard with extreame dolour, the extremeties to

¹ He died at Marlborough, on Sunday, May 24, 1612, of a complication of dropsy and scurvy. *Sir E. Brydges' Memoirs of the Peers of England*, p. 481.—His other 'arch-enemy' Dunbar predeceased him. 'Vpon Monnday, fourth of Februar, aduerteiſment came that the Erle of Dunbar wes dead, vpon Wednesday, threttie of Januar, 1611.' *Haddington's MS. Collections*, Adv. Library.

² Here follow the other names before mentioned, already marked as Assessors and Assise, together with Walter Lord Buccleuch, Walter Lord Blantyre, James Lord of Bewlie (Sir James Hay) comptroller, and Sir John Cockburn of Ormiston, Justice Clerk, who had probably absented themselves.

⁴ Preserved in the Advocates' Library, Edinburgh. ⁵ After a careful examination of the Warrants of the Privy Council, no traces of the original Letter are to be found. ⁶ Disinterested, impartial. ⁷ The envelop of this

Letter has unfortunately not been preserved; but, from internal evidence, Sir Andrew Moray of Balvaird seems to have been the person to whom it was addressed.—The original is among the *Denmylne MSS.* Advocates' Library, A. 2, 40.

the whilkis S^r JAMES ELPHINSTOUN President of the Seffion of Scotland is reduced, for the Letter sent to THE POPE and Cardinalis by Mr Eduard Drummond; and speciallye, becaus the President is so neir to you by alliance. As twiching the Presidentis Confessioun to haif sent that dispathe to POPE and CARDINALIS, without his Maties consent or commandement, I will not melle me with that; nor any thing what it may meritt; bot, becaus I assisted Mr Eduard Drummond in all that negotiatioun, thinking it to be to the Kingis weill and service, and communicatioun of all the Lettres¹ that was broght for that effairis, I thocht it expedient to informe you of the veritie of all. There was no thing wrought in that negotiatioun, which was not thocht to be for the Kingis Maiesteis service; which was, to procure the Bischope of Wefone advancement to the degrie of Cardinall; to the end, that his Matie fuld haif in the Colledge of Cardinalis, one of his trew and faithfull subiectis, to advance his Maties service, and dasche and stop that which might be to his preiudice; and specially, that thay fuld not excommunicat his Matie, or absolue his subiectis from his obedience, as there was some at that same time bissie to procure it: And therefore, was alledgit, that siche rigorous proceedingis in other Popes dayes did not advance, bot hinder the Catholick cause: And therefore, Pope Gregorius XIII. was constrained to grant to the Catholick, to acknowledge and obey the last Q. of England, in all thingis; which was expresse against the Catholick faith.² It was not gevin to vnderstand to the Pope, that the Kingis Maieftie was in any dispositioun ather to come or favour the Catholick Religioun; for the contrair was conteyned expresse in the Letteris;³ saying, that albeit he remaned constant in that Religioun in the which he was nourished, frome his cradle, yit he wald not be enimey and persecutour of the Catholikes, so long as thay fuld remaine faithfull and obedient subiectis to him; as indeed his Maieftie had evir done, vntil the horrible and barbarous Conspiracie of the Goone-powder: ffor in Scotland, to thame of our ordour,⁴ who ar holden the most odious, and persecuted to the deathe be the Ministeris, he did nevir vse more rigour nor to banische thame out of the countrey, and constraine there parentis⁵ to obleis thame, vnder paines, to cause thame depairt. The calumneis of sum passioned writteris, and speciallie of him who answers the Apologie or traite, intituled 'TRINO NODO TRIPLEX CUNEUS;' who improperatis to the Kingis Maieftie to wald haif deceived the Pope, to whome he gave hoip to favour or imbrace the Catholick Religioun, is onlie to disgrace, in what he may, the Kingis Maiesteis self, and some Catholicks whome thay haitt without iust caus, without veritie or charitie; which fuld not be imputed to all Catholickes, nor to the CARDINAL BALARMINE, who is not authour of that booke. Amongst the Catholickes ar many honest men, affectioned to his Majestie service, in all thingis thay may with goode conscience, and faithe of the Catholick Religioun; amongst whome I wald not be the hindmest, as I haif ever bene and salbe to my lyveis end. And heir I leif to trouble your worship, with my humble and heartly recommendatiounis redoublet to your goode affectiounis, as to my L. Vicount of Fentoun⁶ your Vncle.⁷ FROM AUVIGNON, the 27 of Januarye, 1609.

Your worship most humble and affectioned counseing and servant,

(No address)

WILLIANE CREICHTOUN.

VI. LETTER from SIR THOMAS HAMMILTOUN to KING JAMES VI.⁸

PLEASE YOUR MOST SACRED MAIESTIE,

HAVEING ressaued from the Earle of Dumbar, the LORD BALMERINOES Confessioun of his most beynous offensis, committed aganis your Maieftie, togidder with your Maiefties two Letters, contean-

¹ The words 'and instructions,' added on the margin, in another hand, and deleted. ² Inserted on the margin, in the same hand, 'and sick service, who evir had done it, ather with or without Commissioun, apperis to mereit rather thanks and reward nor hard traitment.' ³ On the margin, in another hand, afterwards deleted, 'and instructions.' ⁴ Jesuites and Seminary Priests. ⁵ Blood relations. ⁶ The celebrated Sir Thomas Erskine of Gogar, who killed Alexander Ruthven, at Perth, Aug. 5, 1600. He was created Earl of Kellie, Mar. 12, 1619.

⁷ This seems to prove the Letter to be addressed to Sir Andrew Moray of Balvaird. See his ingenious Letter to the King, Jul. 13, 1608, No. XIX, (14.) of the Collections relative to Gowrie's Conspiracy, vol. ii. p. 323. ⁸ From the Original, preserved in the *Dennyhe MS. Collections*, Adv. Lib. A. 2. 40.

ing sum materiall poyntis of his cairiage, in the practeifing of that mischeivous pourpofe, not conteaned in his Confessioun; I have, according to the iuste and wyfe direction of your priue Letters, formed his Dittay, heirwith to be presented to your Maiestie, to the effect that these treasonabill crymes, which offered so dangerous woundis to your immaculat fame and royall honour, being considered be your most excellent judgement; that which is imperfyte, in my frame of this Dittay, may be amended by your Maiesties most judicious censure.¹ I have also resiaued from my Lord of Dumbar the resolutions of the graue and learned Ciuilians presented to your Maiestie, concerning this same fact, whairin thay have expressed thair sufficiencie in thair proffession and faithfull affection to your Maiesties seruice; bot, being vnacquented with the grounds and course of oure Criminall Justice heir, have leaned to sum warrands, whairvpon I dar not weill relye: Becaus, I foresie that I am to persue ane man, more skilfull to pleade his lyfe nor any that wes broght to the bar in this your Maiesties kingdome thir hundreth yeiris bygane; and who may expect suche assistance of the best of oure lawyers, as many vthers offendours, most guiltie of hieft crymes, hes fund heirtofore: And albeit I think that the sentence gevin aganis him be his owne conscience, and vndeniabill treuth of the cryme, confirmed be his owne Confession, sould tak from him all desyre of contradiction, and hope of any gude by his defence; yet, knowing it to be my dewtie to be reddie for the worst which he or his assistants can abill to intend, I fall be cairefull so to prepaire all thinges necessar for that persute, as your Maiestie, with Goddis grace, fall have full satisfaction, by the performance of your royall commandement, in the verie forme and substance whilk your Maiestie hes preseryved. Gif the Judges do that dewtie, whilk in reason and justice thay owe, and I dowl not will faithfullie performe to your Maiestie, speciallie, feing my Lord of Dumbar² is to be ane ey-witnes of thair proceedings, whois caire hes bene suche in directing the first pairt of the proces, which lyes to my chairge, and exacting accompt of my diligence thairin; that, vsing the lyke with the rest of the Memberis of this Judgement, as I am assured he will, thay will nether get leifour nor leive to neglect or ouersie thair dewtie. In my chairge, his instance fall be bot spurris to ane fast running hors; yet can I not deny that his judgement hes availed to remark and reforme dyuers things to the better. So wiffing to your Maiestie, in this and all vther your Royall difenis,³ most honorabill and happie succes; and to myself, your Maiesties gracious acceptance of the weak indeuours of ane most faithfull hairt and affection in your Maiesties seruice, I commit your most excellent Maiestie to Goddis blissed protection. Edr, this 9. Feb 1609.

Your most sacred Maiesties most faithfull and most bundin servant,

S. TH. HAMILTON.

VII. *NARRATIVE drawn up by LORD BALMERINOCHE, containing an Historical Account of the various Proceedings adopted against him, in England and Scotland.*

[SINCE the preceding sheets were sent to press, the Editor, being anxious to investigate the truth or falsehood of Lord Balmerino's Treason, has pursued as extensive an enquiry as his present limited opportunities permit. It must be satisfactory to all who take an interest in such investigations to learn, that the indefatigable Wodrow has preserved a Transcript of a Memoir, bearing every mark of authenticity, and which is said by Calderwood, in his MS. Church History, to have been prepared by this unfortunate Nobleman, during his exile. Although somewhat prolix and verbose, which is common to

¹ This amended draught has been preserved by Sir James Balfour, and contains very minute and laboured corrections. The King was very partial to such employment, and the crafty Hamilton ministers here to the King's vanity, in no measured terms.

² The reader has already seen how 'earnestly' this Nobleman 'travelled' with the Judges, &c. in the matter of Logan of Restalrig's forfeiture; and the corrupt modes which he scrupled not to adopt, to gain his ends. See this Coll., vol. ii, p. 292, for another extraordinary Letter of Sir Thomas Hamilton to the King; and also Robertson's *Hist.* ii. 223. *Hailes' Memorials of James I.* p. 16, &c.

³ It seems doubtful whether this is a *lapsus* for 'business'; or whether the word 'designs' is meant.

all similar compositions at that period, it must for ever set this point of History at rest ; and not being written for the purpose of publication, but professedly for the information of his personal friends, and of the private perusal and instruction of his son, and for his warning, in the event of his entering into public life, it is so much the more impressive, and carries with it an air of candour and truth, ' nought extenuating,' nor ' setting down aught in malice.'—During the search which it was necessary to make among contemporary MSS. the following remarkable passage, which occurs in Anderson's History of Scotland, seemed to be worthy of preservation. ' His freindis and intereift servantis maid the word go abrod, that the said Prefident not only had a Commission for wrytting of the said Letteris to THE PAIP and CARDINALLIS, bot also that he had a Remission for the samyn, if ever thei should be querrelled ; as in sum missur appeared ; for he was no wayis ffraied for the said Sentence, be reason, efter his returning to ward, his imprifonment was enlarged still mair and mair, till in ¹ he tuik feiknes and died. Bot for feir of bakcalling and renewing the saidis proces, he was quyetlie buried, no man knawing quhar, except a few only of his awin freindis. And within 3 or 4 yeiris efter, his hail landis and honours was restoired bak again to his son and children.'²]

THIS LETTER³ and Instructions, written be Sir Edward Drummond, with the rest of that Dispatche, I presented unto his Ma. shewing it was Drummonds dispatche for the Bishope of Vizone. So all the Letters were signed, without asking to whom they were directed, closed and sent to the Archbishop of Glasgow,⁴ to be directed at his discretione. So Sir Edward received them not in Scotland, but they were sent in Monsieur Bethun's packet, least otherwise they might be intercepted. It may be easilie considered how necessar this service was for his Ma. as matters then went, there being small hope of Englands favour ; Essex being then in his triumphe, and Valentine Thomas his proceffe at the very tyme in deducing, in his Ma^s prejudice, to disable him in his clame to the Crowne ; and what respect could I haue had then, other then my faithfull duty. For it proving, as it did, verie profitable for his Ma. in such fort, as by directione from Rome, all the Catholicks in England prepared themselves in armes and horses, for maintenance of his Ma^s title ; and, at Rome, the Spanishe courses were crossed. It was reputed by them that truelie loved his Ma. the best service that euer was done him in that kind ; Likeas Sir James Lindfay's employment followed after it, and speeciall dealing with diuerse Catholicks of England, wherewith the greatest guiders of England being terrified, and Essex taken out of the way, the Earle of Salisburie, then Sir Robert Cecil, by Lord Harie Howard, now Earle of South-Hamptoune, sought means to his Ma., by Catholicks. They sought means to his Ma., and they were then the surest fort his (Ma.) had there : Likeas HIS MA., in his first Speeche in the Parliament-hous, extant in print, and a printed Proclamatione under his Ma^s hand, did not dissemble how farre, as a Prince, he was bound to POPE CLEMENT, what great loyaltie and affectione he had found in Catholicks, and ever, whill⁵ that detestable Powder Treason (abominable in God's sight, and detestable and damnable to be remembered and recorded, by all memorie,) his Ma. continued not farre from that same minde, whill the policie of some curious heads, fearing lest his Ma. should have looked more narrowly in his owne estate and their actions, and knowing his inclinatione to be tickle in these points of Religione, sett him on work to that *Triplici nodo triplex cuneus*, which procured that answere of TORTUS, Bellarmin's Chaplaine, unknowne, as I am credible informed, to Bellarmine, and not unknowne to some flats-men ther, to exasperate his Ma. not onlie against the Court of Rome, and his owne subjects in England, but to vouchsafe his charitie upon me, against whom their malice, although not deserved for any particular of my owne, is weill enewgh knowne. Their malicious intention, thus founded, was weill fecounded by the malice of my enemies at home, the insolencie of some of the Bishops, and ambition of ane, of whome I had deserved better. The Plott is secretlie contrived, that I shall be brought to a Confessione of it—his Ma. to disallow it—and, consequentlie, my undoing.

¹ He is said, by Calderwood, to have died in the end of May, 1612. See No. VIII. of this Appendix. ² Anderson's MS. Hist. of Scot., Adv. Library, Fol. 652. ³ A copy of the Letter to the Pope precedes this Memorial.

⁴ James Beaton, second Archbishop. ⁵ Until.

There came never anie thing of this to my knowledge, before I came to St Albans, in the beginning of October 1608, the verie night before I come to Roystoun to his Ma. The advertisment that I had, was, that I had procured Letters, unknown to his Ma., under his hand, to THE POPE, whereby he had promised, that how soone he should come to the Crowne of England, he should either declare him self Catholick, or at least he should grant a toleratione to all Catholicks within his dominions; and had procured to make the Bylhope of Vaizon a Cardinall. The last part, because it was true, I thought it not to be denied; but the first, which was alluterlie false, I refused.¹ At my coming to Roystoun Sir Alexander Hay, (in whom I reposed as great trust as in my self,) having formerlie perswaded me, most traterouslie, that his course of accepting to be secound Secretarie,² which at first I disliked, was a plott of my enemies, to his prejudice and mine both; and so, had perswaded my most assured and worthie friend Mr Thomas Murrey of his h(ighness) affection to me, which I did over credulouslie beleave. Coming to me, I compleained that I was wronged, in so much that I had not gotten more tymous wairning of their calumneis and his Ma^s discontentment against me;—excused himself, that he had sent me a packet, but that (I) had missed it be the way;—that it was a mater that I needed not to care fore, feing his Ma. desired no more, but to know the truth; and would not be discontent, if, in the point of his Religione, he were not ingadged. So, I confessed the simple truth. He, in the meane while, had his dailing, unknowne to me, with the Bishop of Glasgow, who incensed his Ma. that, so long as I was officer,³ their state could not be raised:⁴ And having assayed manie other means to disgrace me, could effectuat nothing. Having the authoritie of the greatest there to concurre to my overthrow, they did so dispose his Ma. as, without anie shew of discontentment, he askes of me Sir Edward Drummond's Dispathe, and specialie, of that Letter to THE POPE. I could not denie that which was weill knowne to his Ma.; and that which was contained in Tortus book, was not farre different from the truth; for the words are, (speakeing of his Ma.,) *Literas humanitatis et officii plenas scripsit ad PONTIFICEM MAXIMUM, quibus præter cætera rogavit, ut ex suis subditis aliquis Cardinalis S. R. E. crearetur.*⁵ But his Ma^s promises of conformitie or to alteratione of Religione are not ascribed to my Letter, but to the promises of some of the Ministers. Nixt, his Ma. asked, 'if ever he had consented to call THE POPE his *Father*?' I granted that he still refused—and in that, I had presumed, for the good of his Ma. service, after his Ma. had subscribed the Letter, to cause Sir Edward adde the Pope's ordinarie stiles; wherein, if his Ma. conceived anie offence, I was to crave his Ma. pardone to be disfavoured in that, and to cleare his Ma. so farre as anie would tuiche him therewith.

This past in Roystoun, on Sunday, in the morning, before Sermon, betuixt his Ma. and me, privatlie, in his withdrawing chamber. Sir Alexander Hay, who had still his practises with the Bishop of Glasgow, having learned of his Ma. how farre I confessed, advised his Ma. that my Confessione should be retreated,⁵ in the hearing of some others: And, to the end that I should not suspect their intentione, at my

¹ Denied. ² It is difficult to get at the truth of State intrigues, and to detect the real causes of such a change as that referred to by Lord Balmerinoch in his interesting Narrative, even at the time of their occurrence. His Lordship is, no doubt, very particular in his details, which are likely to be correct; for his Narrative was evidently intended for the perusal of those who must have had the best opportunities of knowing the facts. In a valuable Collection of State Papers, preserved in the General Register-House, Edinburgh, transcribed by Sir Thomas Hamilton (Earl of Haddington,) there occurs a transcript of the original Warrant of Sir Alexander Hay's appointment to the Office of Joint-Secretaryship, in the following terms.

'HAEVEING choissing MR ALEX^r HAY to be on of our Privie Counsell of that our kingdome; and thinking it no way fitt that he sould still attend vs heir at Court, for Scottis dispatchis, as deput to ony vther, We have thairfoir joyued him in office with the Lord of Balmerinoch, our Principall Secretar, (quho being enforceid, be his greitt imploymentis in our service, to continew thair, for the moist pairt,) We intend to have the said Mr Alex^r ane attendar and resedentiare heir at Court, for the better dispathe of the affaires of that Kingdome. And our plesour is, that yow caus tak his oath, as Secretarie wnto ws. Quhairnant thir presentis salbe your Warrant.' [JAMES R.]

To our rycht trustie and weilbeloveit cusine and counsallour, the Erll of Dumfermling,
our Chancellar of that our Kingdome of Scotland.

³ Secretary of State. ⁴ Episcopacy could not be restored. Balmerinoch had obtained large grants of Church Lands, &c., and it was, therefore, his interest to preserve matters in their present state, for fear of a resumption of these livings taking place, which would thus strip him of a large portion of his income. ⁵ Rehearsed, reiterated; not retracted, which at first sight it would seem to import.

second Examinatione was present but Sir Alexander Hay, whom yett (as God judge me, I trusted as my self.) There I confessed, before his Ma., as befor, that his Ma. ever disassented to yeild the Pope any files; and, at the subscribing of the Pope's Letter, I acquainted him no farther, but (in) generall, that it was to Sir Edward Drummond's Dispatch, anent the Bishop of Vaizon. That I caused Sir Edward add the files; and for that, upon my knees, most humbly I craved his Ma. pardone. Then, be his Ma. countenance, and some rounding¹ that past betuixt his Ma. and Sir Alexander Hay, I beganne to be in some suspicione. The King commanded me that I should repair to Londone,—remain there whill I knew his pleasure—and in no case to repaire to the Queen's Court. Immediately, Sir Alexander Hay, the Bishops of Glasgow and Galloway conferred with the King, anent my Confessione; and were discontent that I had not presentlie sett it down, under my hand; yett, fearing least I should have suspected their policie, they would not then urge me anie farther.

The next Mounday I raid to London. Sir Alexander Hay and the said Bishops raid before me; and Sir Alexander went to my Lord Salisburie, (and) acquainted him with all was past. Then begane I to suspect the course, and to repent me I had gone so farre. I sent to the Earle of Salisburie, desired I might have an assignatioun to come to him; who did returne answer, that he was advertised from his Ma. that I was commanded to keep my house; and so it was not fitt I should come to him. Thus did I mistake his Ma's command; for in that (I) was forbidden to repair to the Queen, then lying at Hamptoun Court, I thought all other places, within Londone, were free to me. Likeas, I went to Lambeth, to the Archbishop of Canterburie,² and to Whitthall, to the Earle of Dumbarr; the said Sir Alexander allwise in companye with me, never giving me notice of his Ma's pleasure to the contrarie, whill³ I had it of the Earl of Salisburie; of purpose, as I have since found it, to exasperat his Ma., as a contempt not ordinarie there, where his Ma's commands are verie ceremonioufly observed. But, as God shall judge me, I never heard anie other command from (his) Ma. but to attend his pleasure at Londone, and not to repaire to her Ma's Court.

Wednesdai thereafter, Sir Alexander Hay, having repaired to his Ma. comes with a Note, under his Ma. hand, commanding me that I should sett doune in writte the passing of that Letter to the Pope, and the circumstances, so far as I could remember. Beginning then to apprehend the buffinesse, and having gotten warning of his Ma's displeasure, and the advantage my enemies presumed they had gotten, I become more spairing; and by my Letters to his Ma. desired that I might be excused that I could not sett down the particulars of that, under my hand, after so long a tyme; except that either I were in Scotland, where my papers might bring me to remembrance, or that I had mett with Sir Edward Drummond; begging his Ma's patience, whill³ I might fend for him; which I offered to doe with convenient speed, who should bring with him the just copy of that Negotiatione, and should give his Ma. and all the world satisfacione of the truth. But that was not intended; but contrarie to the truth, to big upon me an unjust imputatione; wherof the production of the Letter would have made me cleare.

THE COPIE of the LETTER sent to HIS MA. the 12 of October (1608.)

Please your most sacred Ma.

IN these particulare points your Ma. did demand of me, so farre as I can remember, I answer for your Ma's satisfacione; That your Ma. (of my knowledge) did never command or direct any Letter to be writtin to THE POPE, neither was I present when Sir Edward Drummond moved your Ma. for any such Letter. That your Ma. did never stile your self 'FILIUS' in any Letter, but to your Mother-in-law, the Queene of Denmark. That your Ma. did never writt 'FATHER' or 'HOLINESSE' to any. As to the Letter written be your Ma. to POPE CLEMENT, although I doe remember that there was some such Letter, conteaining nothing but a Recommendatione of the Bishop of Vaizone, I humbly crave your Ma's pardone, if I can make no declaratione how it was past, whill Sir Edward Drummond, who was the author, bearer and procurer thereof, be first examined; whom I am about pre-

¹ Private communings; whispering.

² Archbishop Bancroft, formerly Bishop of London.

³ Until.

fentlie, with your Ma. permiffione, to fend for, by whom the whole circumftances of that mater fhall be clearlie detected. For I proteft before God, for the prefent, I cannot perfetlie remember how that mater was paff; moft humble craving your moft facred Ma. (fince I am moft willing, for your Ma^s obedience, to clear your Ma. of that before all the world) that in remembrance of my loving and affectionate humble fervice, yee will be pleafed to accord me the tyme and meanes, wherby the veritie of my part in all that mater may be manifested; which as I doe expect, out of your Ma. princely accuftomed clemencie, fo fhall I ever pray, &c.

COPIE of the LETTER to HIS MA. the 15 of October 1608.

I DOE remember that I moved his Ma. divers times to have written to THE POPE, both to have taken notice of his kindneffe, and to have recommended the Bifhop of Vaizon; and that his Ma. did refufe, onlie for that he could not, with fafe confcience, yeild him thefe titles of ‘Father’ and ‘Holineffe,’ which he¹ did allow: But if otherwife the Pope would have accepted his Ma. Letters, with the Titles of other Temporall Princes, he would have written him. As to the circumftances of paffing of that Letter, I proteft before God I cannot call them to my memorie; but by conference with Sir Edward Drummond, and with fuch as ferved me at that tyme, and with fuch other adminicles as I will find in my own papers, I hope I fhall give his Ma. fatisfactione.

HIS Ma. not content to admit my delayes, remembring the circumftance of that negotiacione better then I, he fetteth down a number of interrogaciones, under his hand, with a Letter to the Counfell of England, commanding them to examine me. Being brought before them, I at firft declined their Judgement, till they declared that they would not take upon them to judge me; but, following his Ma. commandement, to examine me and remitt me to my ordinarie Judge. In end, to all the particulars, I answered, in fuch fort, that they could not mend themfelves, nor bring me in compaffe of any Law. The Earle of Dumbar, the Lord Skoone and Sir Alexander Hay prefent.—Thereafter his Ma., being difcontented of my unwillingneffe to cleare him, and to burthene my felf with the fault, yea to tak upon me fome points (which his Ma. affirmed he remembered,) which, in truth, I could not call to my memorie, the Earle of Dumbar directed the Lord Burlie² to me, a verie favourable and faft Nobleman, and who had, immediatlie before the Earle of Dumbar’s parting out of Scotland, renewed a freindfhip between him and me, which was the greateft caufe of my repair to Court, that it might be confirmed there, before the Queen’s Ma.; and his Ma. fatisfied, by the Earles meanes, of whatfoever hard opinion he had conceived either againft the Chanceler or me, by fuggeftione of the Bifhops. His credit from the Earle of Dumbar was to advife me, for my own good, fince it was confefled by me that fuch a Letter was purchafed, and that his Ma. had denied it, that rather, ere the imputatione fhould lye upon his Ma., I fhould take it upon me. When I obtended the perrell of my eftate, his Ma^s difcontentment and their malice, the Lord Burlie gave in this affurance, that my life, eftate, nor Ropar’s Reverfione fhould be in no dangere. As to my Offices, to leave them to his Ma^s difpofitione; whether he would take them from me or not. I finding manie enemies there, and being ftraitlie kepted, I enter, be the Lord Burleyes meanes, who from the beginning has ever kepted ane honeft part to me, in a more particular freindfhip with the Earle of Dumbar. And, becaufe the Lord Skoon and Sir William Hart had diverfe tymes travelled with me to have married one of the Earle of Dumbar’s fifter-daughters, I was content to give him my eldeft fone to be difpofed upon in marriage at his pleafure, to give the Palace and Park of Hallyroodhoufe; and if he desired Reftalrige, he fhould have it for the price I bought it. Thefe conditions, as the Lord Burlie told me, pleafed him, and fo he would take upon him my protectione, if I would follow his advice, which I was content to do, knowing what power he had, and how eafie it was to him to calme all ftormes; allwife defiring him to carie his affectione to me fo fecreitlie, as the Bifhops, Sir Alexander Hay, the Earle of Wigtoun and others my fmall friends,

¹ Viz. the Pope.

² Sir Michael Balfour, created Lord Balfour of Burleigh, in Kinross-shire, Aug. 7, 1606.

should know nothing of it. He was so diligentlie allwise attended be some of these, that after he had appointed me diverse meetings, he could never meete with me; alwise, he assured me what ever the Lord Burlie should say, in his name, I might trust it, and he would performe the same. And hear-upon I desire my friends to enquire the Lord Burlie, if this assurance was not given be the Earle of Dumbar, that my life, my estate, and Ropar's Reversione should be sure; as for my Offices, they should rest in his Ma. dispositione; and it might be I would not want them.

The Earle of Dumbar thus entered in conditions with me; and the Lord Burlie putt in trust, for him and me both, for all conditions on both parts. The first directione was, that I should writte a Letter to him, desiring he should convene the Earles of Salisburie, Northhamptone and Suffolk, befor whom I should grant all the King's Articles; and thereafter writte a Letter to his Ma. to the same effect. He willed me to use these three Noblemen to strengthen his credit, that they being engadged to be my friends, he might the more easilie worke that he had undertaken; and all the said Noblemen promised upon their honours that they should be my friends, and would joyne with the Earle of Dumbar to satisfie his Ma. All which I performed. Then was I delivered in the Earle of Dumbar's keeping, who promised that I should allwise be his prisoner; and at my returning to Scotland I should be wairded in the Castle of St Andrewes. By this advise, I wrotte a becomming in his Ma. will, which the Lord Burlie gave him. He returned me an answer with him, that his Ma. was weill pleased with it, and all would go weill; onlie, I was desired to adde this, that I would renew the same judicialle, when I should be required; which I did.

THE COPIE of the LETTER to HIS MA. 24 of October 1608.

Most gracious and dread soverane,

IT is over great presumptione to offer to your most princelie eyes these lynes, from the hands which have so highlie offended your most sacred Ma.; but, because it was continuance in my offence to labour to obscure the cleare soule of your Ma^s unspotted integritie, and that the imputatione of my misdemanour, which I justlie deserve, may lye upon my self, and your Ma^s innocencie cleared to all the world, I have truelie sett down here, how that Letter to POPE CLEMENT, wherewith your Ma. is falllie taxed, was, without your knowledge, past your hand, amongst other Letters which I did present to your Ma., by the abuse of your Ma^s trust, whereof I was not worthie. In the year of God 1598, at the earnest sute of the late Archbishope of Glasgowe,¹ your Ma^s Ambassader then resident in France, the Bishop of Vaizon and divers others your Ma^s weill affectioned friends and servants, both in Italie and France, who were verie earnest to have had some correspondents betuixt your Ma. and the Pope. Sir Edward Drummond being directed by them in Scotland, to follow that businesse, I presumed divers tymes to move your Ma. therein; and did offer to your Ma. the frame of such a Letter as I would have signed be your Ma. to the Pope; whereunto I never found your Ma. so unwilling as your Ma. did altogether refuse to writte; denying ever to writte anie Letter, with these stiles which the Pope did assume to himself. But I being in my too great zeale, and assured hops were given me by greater statesmen then my self, of the benefite would come to the strengthing your Ma^s title,² by the Pope's friendship, overcome with weaknesse, and presuming that the successe of my true intentione should efface the memorie of my offence, I caused draw up a Letter, with the said Sir Edward's hand, as from your Ma. to the Pope; but verie spairinglie, onlie containing thanks for his kindnesse and bygainne favour, with Recommendatione of the Bishop of Vaizone, your Ma^s native borne subject, to be made a Cardinall. To the which Letter, among others of that kind, written to the Duke of Florence, Sawoy and some Cardinalls, in favours of the said Bishop, (all presented be me unto your Ma. one day in the morning, when your Ma. was going a hunting, in haste,) your Ma. did sett your hand: For your Ma., finding the Letters all in Latine, and the Bishop of Vaizon's Recommendatione the subject, and having formerlie refused to writte to the

¹ James Beaton, the second archbishop of that name.

² To the Throne of England.

Pope, did nothing suspect that anie such thing should have been offered to your hand. And after your Ma. had signed it, Sir Edward Drummond did adde the Pope's stiles, both in the beginning, and above your Ma's subscriptione in the end of it. Some Letters, two or three as I remember, signed be your Ma. to some Cardinalls, containing nothing but thanks and recommendatione of the said Bishoppe, were given to the said Sir Edward cloffe, cachetted, to be directed, by the Bishop of Glasgows advice, to such of them as were, in his judgement, best affected to your Ma.: And I did hear, after, two of them were given to Aldobrandine and Bellarmine, and the thrid to Cajetan, who was Protectour of the Scottish Natione. Here was my first fault of preposterous zeale, weaknesse, and presumptione. My next was fear of your Ma's displeasur; because the late Queen's Ambassader having expostulated for your Ma's dealing with the Pope, and I being asked therof, be your Ma., I did pertinacioullie denie that there was anie such mater; and for your Ma's better satisfactione, I moved Sir Edward Drummond to returne into Scotland; who, being examined, did at my desire justifie my deniall, and that he had caried no Letter for the Pope. I pressed him, verie instantlie, at his returning, to labour to retein the said Letter, and to destroy it, fearing least the knowledge of it hereafter might breed your Ma's discontentment, as it hes done at this tyme, to my exceeding great sorrow. And because my attestatione in this kind, which I protest, before God and his angels, is true, and yett will not be a sufficient liberatione of your princelie honour, which is dearer to me then my life, I am not hearby to beg anie pardone, but that your Ma. in your most rare and princelie wisdom, will take such course, but¹ any respect unto me, whereby your Ma's innocencie and my offence may be made knowne to the world. And so, in all humilitie, attending to suffer what your Ma. will impose, and to obey whatsoever your Ma. will be pleased to command, I pray God grant your sacred Ma., according to the sinceritie of your heart, a true and just constructione of all your actions befor all the world, and, after a long and most prosperous raighe, eternall felicity.

COPIE of my becomming in Will, 3 November, 1608.

Please your most grations and sacred Ma.,

As at the verie first I did ingeniously Confesse my offence, and have particularly sett down under my hand the whole circumstances of it, and likewise answering to the severall interrogatours whereupon I was examined, I have in everie point declared the veritie; so, still continuing most desirous that your Ma's honour should be free of any such imputatione, and my offence without anie longer delay knowne to the world, doe, by these presents, in all humilitie, freelie and absolutlie submitt my self, and become in your Ma's Will; that since onlie against your Ma. my offence is committed, so your Ma. will irrogat unto me such punishment as in your true justice and princelie clemencie I have deserved. And this my becomming in Will, I will renew, or reiterat in Judgment, or without, so oft as I shall be required.

AFTER this, the Earle of Salisburrie causes be drawn up, upon his Ma's Interrogatours and my Answeres, a forme of a Depositione, making everie particular deid to be Treafone—that I had trateroullie conspired with Sir Edward Drummond to deceave the King, and steall his hand to a Letter to the Pope—that I had trateroullie caused put the cachett to it—and that I had commanded Sir Edward, above the King's subscriptione, to writte ‘*Sanctitatis r. obsequentiſſimus filius*,’ so like the King's hand as could be—and so, I had made him fallie to counterfoote the King's hand. This Depositione being offered to me to subscribe, I refused (at) the first; because it made that to be Treafone and treasonable which was not; since the Letter contained nothing but meere complements, and a recommendatione of a Scottishman to be a Cardinall; and that ane Officers trust was greater then to procure a common recommendatione; and the putting of the Cachett to it was lesse treasonable; seing by that Letter his Ma's honour, nor state, nor Religione, was not harmed, nor no damages nor inconvenience had followed upon it. The last part was directly *crimen falsi*; and as I had not deponed it, so it was not true. At this meeting were present the Chancellor of England, Salisburie, Northamptoun, Suffolke,² my lord Duke

¹ Without.

² Thomas Howard, Earl of Suffolk. He was Lord Chamberlain at the time of the Gun-

of Lennox, the Earle of Dumbar, Sir Thomas Smith Clerk of the Counsell, and Sir Alexander Hay.— My answere to the last, the Chancellor granted to be true, and that it was but a mistaking; and so it was mended, and that article delected, in so farre as it concerned the counterfooting of the King's hand. As to the first, my Lord of Salisburie answered me, that what they had sett down was onlie to give his Ma. satisfactiōe; and it was nothing to me, since his Ma. had accepted me in Will, was to deale gratiouſlie with me, and not to proceede judicallie with me any more. Whatever might please his Ma., and in his Ma's opinion give the world satisfactiōe, and clear his honour, since it was not to harme me, it was unfitt that I should refuse his Ma. to give his Ma. what should please him, seing it was not to prejudice me. And upon this assurance, and the Earle of Dumbar's former Declaratione, that the King had weill accepted of my becomming in Will, and that my not subſcribing of this Depositione hindred the progresse of the King's answere to TORTUS booke, wherof this Depositione behoved to be a part, I sett my hand to it, in presence of the Noblemen and others above written, who, I am sure, upon their honour, will not denie it. And hearupon I desire my friends to inquire the Duke of Lennox, the Earle of Dumbar, and Sir Alexander Hay.

LAST, the King's Ma. having concluded to returne me in Scotland, because all this matter was carried with a great shew (as was said to his Ma.) to cleare his honour, but in effect to disgrace me, and make me odious, I was brought before the Counsell. (Not only) all the Noblemen, both English and Scotliſh, (and) all the Judges were brought, but all the Court, so many as the Counsell-Chamber could contane. *The Chancellor* declared the cause of that ſolemne meetinge, made my Depositione to be read, and with a long harrange and many reasons did aggravat my offence, to his Ma's great praise; and in the end, remitted the matter to Scotland, to be judged there. Nixt, *the Earle of Salisburie* had as long a discourse, all to disgrace me, to flatter the King, and to shew his eloquence. Thridlie, *the Earle of Northampton*, to testifie his zeale as a witnesse, how alien his Ma. was from anie dealing with the Pope, these 18 years he had kept correspondence with his Ma., damned all my proceedings. I had warning the night before that I was to be so used, as the Lord Burle,¹ who had bene mediator betwixt the Earle of Dumbar and me, being departed to Scotland, I was forced to send for James Bailzie, a verie trustie young man, to whom I am infinitlie bound, and who (nixt my Lord Burle) was verie privy betwixt the Earle of Dumbar and me; whom I desired to shew his lordship, that I understood that I was to be brought before the Counsell the nixt day, and that they were to rail upon me. That he should not think it evill if I should say, for my owne defence, that which I would make good; that there was no point which they were to lay against me, which I would not answere. He returned James Bailzie to me, with this answere, earnestlie praying me, since that was the last that in that earand was to be done, not for my prejudice, but for his Ma's honour and satisfactiōe, that I would answere nothing; but in all humilitie acknowledge my offence, cleare and liberate his Ma., renew my becomming in Will, and desire my Lords of Counsell to become intercessors, that his Ma. would end the processe, be his Declaratione. This would be most acceptable to his Ma., who would be behind a peece of tapeſtrie,² and if I played my owne part right, his Ma. would be best pleased. Which I also obeyed.

The Chancellor, in Counsell, produced his Ma's Warrant, declaring his Ma's Will, that I should be no more one of that bodie. Which Declaratione of his Ma's Will, having no Convictione nor Warrant, but my becomming in Will was ane acceptatione of it; so, having declared a part of his Will, by no law, thereafter, he might have proceedede judicallie with me. Immediatlie after the Counsell, the Earle of Dumbar sent James Bailzie to me, to give me thanks; and to shew how weill his Ma. was pleased;

powder Plot, and was, with Lord Mounteagle, the chief means of detecting that remarkable Conspiracy. See *Carte*, 111. 757—*Winwood's Memorials*, 11. 171. Suffolk was turned out of his office, in 1618, for embezzlement, &c.

¹ Sir Michael Balfour, Lord Balfour of Burleigh.

² This was by no means an uncommon practice of 'his most sacred Majesty,' and conveys no favourable idea of the course of his proceedings, in this remarkable transaction. It reduces the whole matter to a mere stage trick, and a solemn mockery of the highest Tribunal and personages of the Country.

and that his Ma. would have that in writt, which I spake. Which also I fett doune. And because there was some words his Ma. (as he affirmed) desired to be added, which he affirmed I spake,¹ the words written with his hand, and brought to me be the said James Bailzie, I insert with my hand and subscribed; and fend them to him, with the said James. And hearupon I desire, if need, that my friends may inquire the said James.

THE summe of the Counsell of England's proceedings, on Sunday, the 13 of November, 1608.

THE said day, in the after noone, the whole Counsell being convened in the Counsell-chamber, the whole Judges, and all the Noblemen, both Scottish and English, that were at Court, THE LORD CHANCELLER² beganne a verie grave speech, wherein he did earnestlie require audience and attentione, in respect of the great consequence of the mater he was to speake of. It was so much the greater, that it was a novitie wherof he had never heard, nor (to his knowledge) in all his books read of any the like president, of before. It was of great consideration, because it did touche the Kings most sacred Ma. and royale persone, both in his honour and his safetie, wherein did consist the safetie of the whole estate. The mater was also weightie, in respect of the persone whom it did concerne; a Nobleman of Scotland, raised to that estate by his Ma^s favour, and a Member of that board. As to the mater, because he might perhaps faile in the relating of it (which he was very unwilling to doe, in a mater of that kinde and weight,) therefor he desired the Instrumēt, containing the Lord Balmerinoch his Confession, and signed with his hand, should be read. The same being read, and acknowledged be the Lord Balmerinoch to be his owne Confession, then he said to the Lords of the Counsell, that he did perceave, by their countenances, that they all did looke on that mater as if it were a mater wherein they were to give their sentence and judgement. But he prayed them not to thinke so; and that he would releave them of that burthen; because neither were they convened to that end, neither was the said Lord Balmerinoch brought down to make any answer; because that mater was transcendent, and of a greater weight than that board, or any Counsell board, could judge of it; but, because it was a fact committed in Scotland, be a Scottishman, before his Ma^s happie coming to the Crown of England, they would not doe that prejudice to Scotland, that was as ancient and free a kingdome; as they are so weill governed, with so many grave and ancient Noblemen; whose Nobilitie is continued and reserved with a farre greater respect and antiquitie nor their owne; so wise a Counsell of Estate, so learned and grave Judges, as in all these perfectionis they were nothing inferiour to them. Onlie, for the present, he would point out and offer to their considerations, that were present, some heads of that Confession, which had been the consequents of that fact; and so remitt it to the own Judgement,³ and the Lord Balmerinoch to his own answer before his owne Judge. First, he desired they should attend the tyme when his Letter was written; to witt, when his Ma. was, in possessione, King of Scotland; in his title and undoubted royall descent, apparent of England. How this fact might have perrelled him both the one and the other, if it had been knowne that his Ma. had had any dealing with the Pope; for, in Scotland, the most of all the Nobilitie, gentrie, and whole bodie of the kingdome, being of the Religione they presentlie profess, would not have failed to have made insurrectione, if they had knowne that his Ma. had any dealing with the Pope. In England, the late Queene, of happie memorie, being a Prince verie jealous and narrow looking in all his Ma^s actions, if she had knowne that his Ma. had had anie course with the Pope, she would have quicklie objected unto his Ma., that since he was taking a forane course to strengthen him, speciallie with these who had so often suted⁴ her life, she would likewise take another course, for her owne preservation; and so might have endangered his Ma^s just clame. Like as, in effect, the same dealing comeing to her knowledge, she did incontinent fend her Ambassader, and did most bitterlie expostulat with his Ma.; and the dealing, at that time, was denied; and so finoo-

¹ Balmerino was thus led forward by one piece of artifice after another, until, at length, he was so completely in Dunbar's toils, that retreat was impossible.

² Sir Thomas Egertoun, Lord Ellesmere, afterwards (1616) created Viscount Brackley.

³ To the natural and proper Court or Jurisdiction, in Scotland; where he would be tried by an Assise of his peers.

⁴ Pursued.

thered over. Nixt, he did mightilie aggredge¹ the great inconveniences that had fallen out, all (as he did affirme,) upon the dealing mentioned in that Confessione; first, that it had given occasione of ane infinit number of scandalous books and pamphlets to be written, wherin his Ma. was verie bitterlie taxed; and speciallie, he did there produce *Bellarmines* late book, under the inscriptione, which he did read, of one whose name being *TORTUS*, he did allude therunto that he was alwise *tortus*.² The parcell³ he read, was the fault found with Pope Clement's Breave; wherby he did command the body and estates of this kingdome of England not to admitt or receave a King, in case of the Queen's decease, but a Catholicke; and so did exclude his Ma. from his just title. To the which clause, contained in the book of *Triplici nodo triplex cuneus*, Bellarmine made this answer, that by that Breave, the Pope did not meane to exclude the King, because the name '*Jacobus*' was not mentioned in it; and withall, the Chancellor did observe, in the words he read, that *Bellarmino* did give the author of the book a lye, in the word '*mentitur*;' nather could it be meant of his Ma., because his fervants and Minister had given great hopes to the Pope, that '*non erat valde alienus a fide Catholica*;' and thereafter, '*quia etiam Rex ipse scripsit ad Pontificem ipsum, Literas humanitatis plenas, quibus, præter cetera, rogavit ut aliquis a Natione sua Cardinalis S. R. E. crearetur, per quem facilius cum Pontifice res suas tractare possit*:' Which words being conforme to the Lord Balmerinock's Depositione, the same had given occasione of the writting of that booke; in manie parts wherof his Ma. was bitterlie touched. Nixt, upone the occasione, contained in that Depositione, did grow all the Conspiracies that, since his Ma^s conmeing to England, had fallin furthe; for by this dealing with the Pope, unknowne to his Ma. great hopes were given to the Catholicks, that when his Ma. should come to the Crowne of England, his Ma. should either declare himself a Catholicke, or, at the least, the Catholicks should have a toleratione of Religione, within his dominion; wherof, finding themselves disappointed, they did move their Conspiracies. For scarceilie was his Ma. warmelie sett down in this kingdom of England, when Watfone the Preist and a number of his adherents did attempt against his Ma^s royall persone; for the which a number of them were apprehended and punished. Nixt, upon it came the devilish intentione and practise of the Powder Treason, wherin was intended the taking away of the King, Queene and their posteritie, the Counsell, Bishops, Nobles, Judges, Gentry, and whole bodie of the realmes; for the which a number were punished, and a great many, in his Ma^s clemencie, spared. Therafter, that none should mistake their proceedings, in the tryell and examination of the Lord Balmerinock, he declared all the points therof, adding, that although it was a case might receive judgement in England, in respect it did concerne his Ma^s persone, which hath so many priviledges that it draweth all Judgments⁴ after it; and that the Lord Balmerinock that was to be judged was present, and so might receave his judgement there, yett such was his Ma^s respect to his ancient native kingdome of Scotland, and they were so farre from encroaching upon the liberties therof, and knowing the tender regarde that the Nobilitie and Estate would have to a mater that did so highlie concerne his Ma.; after a long reiterated discourse, in the praise and honour of that kingdome, Counsell, Nobilitie and government of it, declared, that they would remitt the mater to receave judgement there.

NIXT, THE LORD TREASURER⁵ begane a verie grave speech. After the dew commendatione of the Lord Chancellor, that had spoken before; that he was verie sorie to have occasione to speack of a mater of that kind; but since it did concerne, so highlie, the life and honour of his most sacred Ma. (whose life was dearer to him nor his owne) he should be thought verie undutifull, being so manie wise bound, if he were silent in it. There, having given his Ma. his owne dew praise, at great length,⁶ he did next adde that he was sorie to speake of it, in respect of the persone whom it did concerne,—a Nobleman, by his Ma^s favour, a Counsellor of State, yea more, a Secretarie of State, and one against whom, his dentie reserved in this, he would be loath to have spoken. The fume of his speech grew

¹ Aggravate.² Crooked, perverse.³ Portion, passage.⁴ Jurisdictions, Tribunals.⁵ Sir

Robert Cecil, Earl of Salisbury, Principal Secretary of State. He succeeded to the office on the death of Sackville, Earl of Dorset, in 1608.

⁶ Well knowing his Majesty to be behind the tapestry!

to that same end of my Lord Chancellor's former Speech, that his Ma^s dealing with the Pope might have breed him, in his owne kingdome, disobedience, and done him prejudice in his title to England; that if his Ma. had beene of the counsell of writting of that Letter to the Pope, he would affirme that he had bowed his knee to Baal; being desirous to establishe, for his affaires, ane Advocat at Rome. Nixt, by the words of Bellarmin's booke, then produced, he shew, that the Pope took upon him to declare the Crown of England elective; because, by the words of the Pope's Breeve, the estate and bodie of England were commanded, first, '*non admittere*;' next, '*non instituire, nisi Regem orthodoxum et Catholicum*'—so the heretable descent of the Crown of England was taken away, and behoved to be holden in almous¹ of the Bishop of Rome; that he would not be content to be Bishop of Rome, but would have all Europe at his dispositione. And, in another place of the booke, he shew ane conclusion more offensive to his Ma.—'*ergo REX JACOBUS neque est Catholicus, neque est Christianus.*' That, for himself, he did never say so much of any Catholick; and that he did verilie beleave that a true Catholick was *Christianus*. Nixt, he fell out upon the office of a Secretarie, the great credit and trust thereof; that in a Secretarie's breast is laid in store, the treasure of all the secrets of the kingdome; that *fides* and trust is of that nature, that *fides quæ semel accedit nunquam revertitur*;—that he feared, in tyme to come, his Ma. behoved ather to have no such officer, or ells divide the trust of maters of no importance to one, and common affairs to another;—that of a King's hand-writte, if it may be caried by² the knowledge of the Prince, is more dangerous nor an army of twentie thousand men; because the one may be fore-seene, the other not. Nixt, in the nature of the fact, he compared the King's Seall with his hand-writt; that the Great Seall was but the King's image, but his hand-writte was his minde; but if any thing should be added above the Great Seall, for himself, he would think it verie near Treafone, leaving them to consider what it was to adde any thing above his Ma^s hand-writt. He desired to be excused if he were a little kindled, and did remember the manie favours he had of his Ma., that he possessed manie places that were fitter for others, yett none should goe before him in trust nor affectione.³ To testifie his Ma^s unwillingnesse to have dealing with THE POPE, he did remember how his Ma. refused to receive anie Ambassader from him; and how he commanded the Ambassader Lieger in France, to shew the Pope's Nuncio in Parise, that if anie of his Ministeris in his name had promised more then they had warrant, the Pope should not expect anie performance therof from him. Last, he made (as he called it) a punctuall discourse of all the proceedings in the Lord Balmerinock's Examinatione, and how his Ma^s memorie was a great deall better in that mater then his; and by his particular interrogations, had brought him to a Confessione: And, after ane example and verie large commendatione of the Kingdome of Scotland, and wise and grave government of it, did remitt the judgement of that mater to them, not doubting but they would proceed in it, as his Ma^s interest and the weight of the mater did require.

After him, THE LORD PRIVIE SEALE⁴ had a Speech, wherof this was the preface. If he had had libertie of speech, as he had not, he would have chosen these two noble lords who had so gravelie and learnedlie spoken to have gone before him; for they had taken up the crope of all was to be collected of the present mater, so cleanlie, as they had left nothing behind to him to glean; but he did remember to have read of the nature of the bee, that at first coming upon the flowre, the did gather the honie, and after the honey being collected, the did gather the waxe. So would he, since there was no

¹ In alms; as an eleemosynary gift.

² Without, contrary to.

³ The whole of these Speeches and gratuitous affirmations were in reality addressed to the King '*behind the arras*,' and they were all so constructed, by these Court sycophants, as to be most palatable to the royal taste. The knowledge of this circumstance must sink the speakers in the estimation of all who read such abominablerodomontade, and convert all their fulsome adulation into solemn mockery or absolute farce.

⁴ The celebrated Henry Howard, Earl of Northampton, who was styled by the French Ambassador, Monsieur de Beaumont, '*one of the greatest flatterers and calumniators that ever lived*.' He was deeply involved in the murder of Sir Thomas Overbury; but died before that atrocious affair was publicly investigated. The private and intriguing Correspondence between King James and Cecil, previous to his accession to the throne of England, was carried on through the medium of this individual. See Lord Hailes' Letters, &c.

honey left, gather up some waxe to seale up the mater with. And first, after a large commendatione of his Ma^s so manie rare and princelie qualities, whom that mater did so highlie concerne, (which he protested he did not as a sycophant or flatterer,¹ but as a true and faithful Counsellor,) he did say some thing of his affectione and dutie to the Lord Balmerinloch, with great sorrow for his errour in that kind, that he should have thought it a fave way for his Ma. to have left his assured true friend, which was the Queene and Estate of England, to follow after a stranger, speciallie since of his own knowledge (for the space of 19 years) it had pleased his Ma. to keepe intelligence with him. He perfittlie knew that his Ma. was most unwilling to anie such course. First, how in the 88 (1588) the Bishop of Dunblane cam in Scotland with so many great offers; and if his Ma. would have given him anie, never so little hope, the Pope would have stayed that great Armado. Nixt, come Sir James Chisholme, who dealt in the same course, and because he did not prevaill, he did break his heart, and so died. Watfome the Preist having come in Scotland and dealt with his Ma., did confesse to his lordship, that he could never have more of his Ma.—but if ever he came to the Crowne of England, that he would not come to break the law, but to keepe it: And that the said Watfome, being in prison, some few dayes before his executione, his lo. went, by his Ma^s commandement, to examine him in that point; who declared to him, that he could never gett anie farther grant of his Ma. nor is before said: not-the-lesse, to the end he might keepe the Catholicks in better dispositione towards his Ma. he did give them better hopes. That Sir James Lindsay did bring his Ma. a Letter from the Pope, which he refused, and would not so much as suffer the same to be unclosed. Last, since his Ma^s coming in England, there come one from the Duke of Lorane to his Ma., who being weil received, as the Duke of Loran's fervant, having thereafter secretly shewed unto his Ma. that he was the Pope's gentleman, and had some directions from him to his Ma., he would heare no more of him; and his Ma. did mightilie complaine that the Duk of Lorane did use him in that kind. And hereupon did he condemne the Lord Balmerinloch his course, in respect of his Ma^s unwillingnesse to have anie dealing with the Pope. He said farther, that if at that tyme when the Queen's Ambassader did expostulat, the course had been revealed, the fault had been the lesse. That it was God's singular caire over his Ma., that by the coming furthe of such a book, at such a tyme, when the Lord Balmerinloch was present to reveale the truth, his Ma^s innocencie in it was so cleared. And because that some doe justifie the couns, because of the good intencion of it, that he had read, that in good intentions three things were requisit, 1st, that they should be in things indifferent; nixt, that they should not be *contra preceptum*; last, that they should not be *in prejudicium tertiæ personæ*. Nather of which was observed in this; because it was not a thing indifferent to the King to keepe correspondence with the Pope, being a mater prejudiciall to his estate; next, that it was *contra preceptum*, because he was not of his Religione; last, it was *prejudicium tertij*, because the Queene of England was thereby intereffed; so as the intencion of it could not procure it anie allowance. In end, after a large commendatione of the countrie of Scotland, and his best wilhes that the Kingdome of England would looke carefullie in their honour, and not admitt everie one so indifferentlie to it, following the example of Scotland, he did likewise remitt the mater to be tried and judged there; not doubting but it would be carefullie done, according to the weight of the mater and his Ma^s expectatione.

Thereafter, MY LORD CHANCELLER declared, that since that Board was his Ma^s bodie representative, and all the members of it were at his Ma^s dispositione, and alterable with the breath of his mouth; that it was his Ma^s pleasure, that the Lord Balmerinloch should no more be one of that boord. Whereupon he did produce a Warrant, signed be his Ma.; which being read by the Clerk of the Council, the Chancellor desired that all the Lords of the Council should take notice of it.

¹ 'Hem!' His Majesty must have been a 'glutton' indeed, and his appetite for flattery altogether insatiable, if these Speeches did not give him a complete surfeit! It is evident that this intriguing politician well knew what would best please the royal palate. Strange as these things may now appear, such was the King's taste,—and *de gustibus non disputandum!*

[*THIS, or near this, I would have answered, for my own justificatione; if that, by three several commandements from the Erle of Dunbar, I had not been desired to the contrarie. James Bailzie was the carrier of the message.*]

To the *first* Speech, it might have been answered, that if the reverence and majestie of the person, (whom the mater was affirmed to touch in honour and safetie) the gravitie and eloquence of the speaker, and the hatefull dispositione which was against the persone which was to be censured, had not extraordinarie concurred, although the deed wanted a precedent, yett manie offences of greater importance and more perrellous precedents were smothered up, with silence: And wher,¹ it was now first said, that the Letter might have procured his Ma. the tinsell² of the Crown of Scotland, which he had in possessione; ther was no such appearance, because ther was no Scottish man, of whatsoever qualitie, so little sensible of his Soveran's wrong, but would rather have wished his Ma. to have had correspondance politick much more with the Pope, before he had been prejudged of his undoubted title to England, speciallie since that Letter (nor no constructione can be made upon it) does carie any prejudice to Religione, or other conditione hurtfull ather to his Ma^s honour or estate. Nixt, where it was said, that the said Letter might have lost him the Crown of England, to the which he had undoubted right apparent, because the Queen might have taken exceptione att it, and so inclined some other way; first, it might have been answered, that his Ma^s title was not at her dispositione, and if she had been discontent, there was no reason; for since the did ever refuse to yeild him anie assurance of his succession after her, (and Spaine avowedlie, and France under hand, besides others, as competitors, daylie talked of,) although he had laboured for the friendship of all the Christian Princes in Europe, upon just and honourable conditions, and without breach of dutie to her, she had no just cause of offence: Beside that, some did not spare to talke of some unseemly plots contrived in England, about that same time, to his Ma^s prejudice. *Secoundlie*, where it was with great vehemencie and rare eloquence amplified, that that Letter had given subject and occasion to the writting of many pamphlets, wherein his Ma. was bitterlie touched, it might have been answered, that by the contrarie, it had stayed the writting of many and doing of many worse turnes, had procured his Ma^s good at the Court of Rome, the favour of all the Catholicks of Europe, but speciallie in England; and if his Ma. had been offended by anie books, they have had other grounds than that idle Letter; wherein *Bellarmino* alledgeth not, that ther was anie more, but a Letter full of courtesie, and a requit for a Cardinall; and if it had contained any other thing whereby his Ma. had been ingadged to the Pope's advantage, it had not been forgotten. Look therefore if the writting of the former books, or some other conditions then that Letter, hath not given occasion of this offence. *Thridlie*, where it was said that all the Popish Conspiracies did flow from that Letter, because the Catholicks, finding themselves disappointed of their hopes, did attempt all those devilish Treasones, it might have been answered, that if that Letter giveth anie such hope ather of the Kings Ma. being a Catholick, or toleratione, then is the argument good; but if not, then it holdeth not; and these hopes most be found out another way, and the authors of them charged with that imputatione.

The *secound* Speech, in so farre as it was carried out with the first, the same answers might have been repeated; but, where it was said, that if his Ma. had been of the knowledge of that Letter, he would have bowed the knee to Baal, appointing ane Aduocat at Rome;—that conclusion holds no more nor³ if it should be said, that the Queen, for writting manie Letters to the Turk, and appointing ane agent there, should have become a Mahumetan. Neither is there any that can doubt, but that great Statfman, who had the speech, does know verie weill, that Princes of different Religiones have their Leagues and Amities, their intercourses of Negotiatione and civill affairs, without bowing their knees to strange Gods. As to the invectives against the Pope, they were all just, and verie pertinentlie and eloquentlie delivered; yett they did not aggravat that fact, neither was there any thing in that Letter that did allow of them. As to the objections of violating the trust of a Secretarie, that

¹ Whereas.² Loss; from *tyne*, to lose.³ Than.

could not be denied; and so the partie doth grant his offence, pretending onlie, that as an expert Phisician, in a disperat disease, or a perfitte Pilot, in an extraordinarie tempest, is not alwise tyed to the precise rules of his art, so some things are permitted to Statfmen in their places; and he, perhaps, feing his Ma^s great danger; and that, for writting a stile to a Pope, he would give his enemies so great advantage, and perrell a Kingdome, he did temerariouſlie adventure his credit: And for that was talked of the nature that *fides quæ ubi semel receſſit nunquam revertitur*, that politick maxime giveth ane answer, *ſi violandi regni cauſa*, and the more is he excuſable, that it was to his maſter and not to himſelf; and as he durſt and ſhould have adventured his life to have foughten for it, so did he perrell his truſt to conſerve it. To that, that a King's hand-writt, if it might be caried by his knowledge, was more dangerous than 20,000 men, that is an argument *ab incommodo*, which ſince the deid is paſt long ſince, and no harme followed upon it, neither to his Ma. nor his dominions, it followeth no more. To that of the compariſon of the broad-ſeales to the King's hand, and what is the danger to writte above any of them, belongs to the Judges and Lawyers, to determine; but in the law of reaſone and civill juſtice, where there is no fraud meant, no harme done, nor no inconvenience can enſue, the fault is the leſſe.

In the *laſt* Speech, moſt gravelie and eloquentlie delivered, becauſe it was for the moſt part a narration of particulars, teſtifieing his Ma^s unwillingneſſe to writt or have any dealing with the Pope, it is like enough to be true; for if his Ma. had been willing, or wittinglie had ſett his hand to the Letter, then there had been no fault committed, ſo that cauſeth the Confeſſione of him who abuſed his Ma^s truſt. And where as, his good intentionne to his Ma^s ſervice, did furniſhe him ſome excuſe, that was moſt learnedlie taken away by three *caveats*, which the Divines doe require to make intentions juſtifiable; firſt, that they be in things indifferent; nixt, that they be not *contra præceptum*; thridlie, that they be not *in præjudicium tertii*: To all which it might have been answered, firſt, generallie, that the politicke courſes, ſo weill knowne to ſo great a wiſe man in ſtate maters, are not to be ruled according to the ſtrick rules of Divinitie; and particularlie, to everie *caveat* there can be nothing more indifferent, nor¹ a free Prince to writte a kind Letter to his neighbour, and to make to him a reaſonable and juſt ſute, hurtfull to no man; as for the ſecound, there is none of the commands that did forbid the King to writte to the Pope, for ſo *præceptum* in that mater is to be underſtood; thridlie, by that Letter there is no prejudice done to anie perſone; and ſince his Ma. was by no League nor Bond bound to the Queen in the contrarie, no man will think that his Ma. ſhould be anfwerable to ane imaginary prejudice, there being nothing contained in the ſaid Letter that in any ſort could hurt her, or any other perſone. In all the Speeches, as they were moſt gravelie and eloquentlie delivered, ſo did they yeild, everie one of them, a rare and extraordinarie commendatione to the countrie of Scotland, the grave and ancient Nobilitie, the wiſe Counſell of Eſtate, the learned Judges, and the moſt tender regard, in all their actions, to his Ma.; wheroſ, as everie man did conſider the end, ſo they ought² no ſmall obligatione to them, for their exceeding kindneſſe.

COPIE of the SPEECH which I ſpake, indeid, to THE COUNSELL, after the three Harangues before written.

My verie honourable Lords, I find true this day in experience that which I had oft read and heard, that no exceeding joy,³ &c.

The Biſhops of Glaſgow,⁴ I think, with the counſell of the Erle of Wigtonne,⁵ deſpaired, before my coming to Court, that the Letter to the Pope ſhould doe me anie harme; thinking, either that I ſhould be denied it, or that it was of ſo ſmall conſequence as it could import no cryme. They had

¹ Than. ² Owed. ³ See Vol. II. p. 578. Opposite the words 'but alace!' &c. (line 10 from bottom of the page,) there is written on the margin, 'These words added at the E. of Dumbar's desire, to please his Ma.' ⁴ John Spottiswood, afterwards Lord Chancellor (1634). He was translated to St Andrews, 1615.

⁵ John, sixth Lord Fleming, was created Earl of Wigton, Mar. 19, 1606. He married, 1st, Lillias, only daughter of John, 3d Earl of Montrose; 2dly, Sarah, eldest daughter of John, Lord Herries, and relict of Sir James Johnston of that Ilk.

invented againſt me ſome interrogatours, whereupon the King ſhould have examined me, anent the Powder Treafone, which were kept cloſſe from me, till immediatlie before my comming away: Then they were brought to me by my truſty friend Sir Alexander Hay, never letting me know of them, albeit they had been in his hands three moneths before. The juſt copie I have incloſed hear-with, and my answers. They are as frivolous as they are falſe; alwiſe I will my friends may ſee what hee beene the malicious curioſitie of my enemies to my diſgrace. I ſuſpect the Biſhop of Glaſgow, the Earle of Wigtoun and Sir Alexander Hay; and whatſoever the Earle of Wigtoun knew, was not kept from Killſyth.¹

In a Proclamatione, made at Weſtminſter, the 22 of February, 1603, which is imprinted, there is contained theſe words, in ſpeaking of Foreign Princes: ‘Among which forran powers, although We acknowledge ourſelves perſonallie ſo much beholden to the new BiſHOPE OF ROME, for his kind offices and privat temporall cariage towards us in manie things, as We ſhall be ever readie to requyte the ſame toward him, as Biſhops of Rome, in ſtate and condicione as a ſecular Prince.’ Yet conſerr this Proclamatione with his Ma^s firſt Speech in the Parliament Houſe, which is alſo printed, wherein he acknowledgeth his particular obligation to POPE CLEMENT, whereby it may be preſumed, as matters then were, what great diſcontentment it could have beene to his Ma. to writte a Letter to him. Like as, many other Negotiationes which his Ma. had with him are more nor notoriouſlie known.

The ſumme of the DECLARATIONE, ſubſcribed 18 November, 1608.

THAT at my firſt Examinatione I did denie, extenuatt and transferre the knowledge of that Letter; therefore, I did Confeſſe, that, at the ſoliſtatione of the Biſhops of Glaſgow, who was his Ma^s Ambaſſader, and the (Biſhop) of Vaizon, I laboured to have a correſpondence betwixt HIS MA. and THE POPE, I moved his Ma. in it, and found him unwilling. Therafter, I conſpired with Sir Edward Drummond to gett a Letter under his Ma^s hand to the Pope. Sir Edward drew up the Letter. I ſaw the draught of it, and corrected it. That one day, in the morning, when his Ma. paſt to hunting, I brought him a number of Letters to be ſigned, in favours of the Biſhop of Vaizone, to the Dukes of Sauoy, Florence, and ſome Cardinals; among the which Letters I ſhifted in that Letter to the Pope, having no ſuperſcriptione in the beginning, nor above his Ma^s name; and ſo gott his Ma^s name to it without his knowledge. That the Letter contained nothing but thanks to the Pope for his bygane kindneſſe, and deſire of continuance; that he would be pleaſed to advance the Biſhops of Vaizone to be a Cardinall, that his Ma. might have more intelligence of his affairs at that Court. That the Letters to the Pope were written in Roman Letters. I directed Sir Edward to writte the Popes ſtiles in the beginning; and in the end, ‘*Sanctitas*’ and ‘*Filius*.’ That the ſaid Letter was caſhetted at my command, be one of my ſervants who kepted the caſhett.² That in the late Queen’s tyme, ſome expoſtulation being made by her Ambaſſader anent the ſaid Letter, I did denie it, and cauſed Sir Edward, being come home, juſtifie my denyall, and that he had caried no ſuch Letter; being examined therupon be ſome of the Counſell. That he, being committed in ward, I laboured for him and procured his releefe. That I dealt earneſtly with him to returne the principall Letter, who promiſed to doe ſoe.³

[The Narrative is here interrupted by Calderwood’s own work. It is afterwards reſumed, being introduced by Calderwood in the following paſſage: ‘About the beginning of December, the Secre-

¹ Sir William Livingſton, Lord Kilſyth, one of the ordinary Lords of Session.

² A ſtamp contrived to imitate the King’s ſignature, to ſave him the manual labour of ſigning certain official documents. It is ſtill in uſe, and is applied to particular writs not requiring the royal ‘Sign-manual.’

³ CALDERWOOD remarks here. ‘The President was ſent back to Scotland as a priſoner, with a Guard attending upon him, to be further tryed. When he came to Newcastle, he ſent the Laird of Pitloure to informe Mr James Melvill how he was dealt with, for ſtanding for the freedom of our countrie, and croſſing of the Biſhops and their proceedings; and deſired Mr James to writte to the good brethren at home, as he thought meet himſelf. When he came out of Newcastle, it was marked that he ſhed tears, which was a verie baſe thing in him. At Berwick he was heard to utter theſe words, “I wiſh I had beene made a ſheep-keeper when I was made a ſcholler.”’

tare Sir James Elphinstone, President of the Colledge of Justice, came to Berwick, accompanied by the English Guard and some of the Earle of Dumbar's servants. He was received by the Captain of the Scottish Guard, Sir David Murrey Lord Skoone, latelie Comptroller, accompanied with the Scottish Guard and some of his friends; and was convoyed to waired to Falkland. The manner of his parting from London to this countrie he has sett down himself, as hear followeth, continuing his former relatione.']

ORDER hereafter being taken about my returning, my Lord Dumbar sent James Bailie to shew me, that there was some of the Guard, onlie for a shew, appointed to attend me; desiring I would not take it in evill part. They would ride with their coats till they were past Roydstoun, where his Ma. was; and from that, as other privat servants. He sent me word divers times that he would meet with me; but whill¹ the Earle of Wigtonne and the Bishops were gone, he could not, for suspicione.² So the verie day they parted, in the morning at ten hours, his lo. came to my house, although I had offered to make the travell; but, because I was under commandement, it could not be. All this tyme I was attended to be two of his Gentlemen, who used me verie kindlie. The one was Alexander Auchinmowtie, brother to John Auchinmowtie; the other, James Carmichaell, sone to Watt Carmichaell of the Park; to whome I wishe my friends or to anie of theirs to be thankfull. At our meeting, I renewed to him what had past betwixt my Lord Burlie and me, my particular offers, for assurance of his Lordship's friendship, what I did expect mutuallie of him, as the Lord Burlie had promised in his name. All which he was well pleased with, and how soone my trouble was ended, which should be upon his coming in the countrie, he would enter in the due performance of every particular, and would establish such an alliance with me as should not be discovered. I complained that my waired³ was altered, because he had promised that I should remaine in the Castle of St Andrewes: He excused the estate of the house, and that he had as great credit in Falkland as in St Andrewes. Nixt, that the Lord Skoones Warrant was so strait: His answer was, that that was onlie done for the fashione; that the Bishops and Sir Alexander Hay procured it; but he would desire the Lord Skoon, by James Bailie, to use me well. He desired me to keepe all secret; and, as he was a Christian, every thing should (be) performed with no less care than I were his own brother, or his two daughters. He willed me not to be suspicious of any his actions, because it behoved him to follow the King's honour, please the Bishops and others that were my unfriends, in outward shewes, that he might the more easilie worke my turne to my contentment. I think that he entered in a speciall friendship with my Lady Drummond, and gave her that assurance of my life, estate, (and) Ropars office that he gave to the Lord Burlie.

Being come to Falkland to my waired, and more hardlie used nor I did expect, I directed to Court my cousin Pitlowre to put the Earl of Dumbar in memorie. My worthie friend the Lord Burlie tooke the pains likewise to go there, to make all former conditions sure; and, as I was informed, his Ma. directed no further, but that, in a Justice Court to be holden at St Andrewes, (for I desired it should not be in Edinburgh,) I should become in Will, and his Ma. to declare his Will, at his pleasure. But when my Lord of Dumbar came to Edinburgh, and found that Sir William Hart (who had gotten a promise of my place in Session) to putt me to ane Assise, and my Lord Collector⁴ to be Assessor, and a number of Assise that would convicte me upon my own Confessione, which is more than to gett me in Will. The Earle of Dumbar having advised with the Bishops, durst leave nothing undone of extremitie against me; and the Collector, being more circumspect nor the rest of his fellows, and most desirous to have me sure, resolved the Earle, that none of my Depositiones made in England would serve against me, except I ratified them here. Whereupon, the coming of the Counsell to Falkland was appointed; and although I had been verie carelesse of the mater, because I was certified that there was no more ado but to take me, judicallie, in Will; yett, knowing of their coming to Falkland, I

¹ Until.

² Viz. in case the Earl and Bishop should suspect collusion between the Chancellor and Balmerino.

³ Place of confinement.

⁴ Mr John Prestoun of Pennyquik.

imagined at first the cause of it, and was resolved to have past from everie point of these Depositions, except onlie the naked veritie of the deid, wherupone no crime could follow ; for most lawfullie I could have come against my Depositione, becaufe it was made extrajudicialle. And, in case they would make the Counsell of England a judicator, first, it was subscribed, not before the Counsell, but in the Earle of Salisburie's cabinet, before so many of the Counsell as are before mentioned ; *next*, the Counsell of England could be no Judges competent to me, likeas I had lawfullie declin'd them of before ; *farther*, it was made upon the conditione above mentioned, which I would have referred absolutely to the Earl of Dumbar's oath ; *last*, it was revocable, as made for fear of my life, or perpetuall imprisonment in the Towre. If they would have made my Dittay Treafone, becaufe it is so called in my Depositiones, the calling of a deed Treafone, *non mutat naturam facti* ; as if I would confesse I had traitorously conspired to kill one of the King's bucks, would not convict me of Treafone ; or that I had treasonably broken waird, being committed for fourtie pound of civill debt ; so, the procuring of a common Letter of Recommendation, containing no Treafone, prejudice to the King, nor Estate, could never be Treafone. And whear as, it was affirmed to tuike the Princes honour, the King did never refuse to acknowledge the Pope as a Catholick Prince, to whom he acknowledged himself bound ; and so it was no dishonour to him to writte to him, seing the greatest Princes in Europe doe it ordinarlie, both of the Reformed Religion and others. That that Letter was prejudiciall to his Ma., his Religion, countrie and Estate, it could never be verified ; for, except my own Depositione, (revoked, as I have said,) there could be no other verificatione, either by writte or witnesses ; so no honest Judge or Assessor that had either conscience or honour could have sustained such a Dittay. And if they would have made it *Crimen Falsi*, out of the Lawes of the Majestie, (*Reg. Maj.*) I would have denied that my life could have been judged be the Majestie ; more then ane hundreth kyne may be satisfactione for the King's Murther, which the Majestie calles killing. I remember, Mr Thomas Craige answered to *generaliter verum, generaliter falsum*, in a civill mater, *quibus casibus tenetur hæres præstare factum paternum*, which is lesse nor my life. Lastlie, that word, *Charta domini Regis*, is not to be understood of a privat Missive, wherby the King or a partie is not prejudged ; but a Charter, or evidence, wherby either the King or subject may losse his right. If they would have made it out of the Decretals, cap. 5, *de Judiciis*, albeit it say, *non esse immunem a Crimine Falsi*, yett, according to all the Doctors, it most be understood to be *scriptura damnoza et fraudulenta*, for *omne Crimen Falsi* is not capitall, *ubi neque est damnum, neque esse potuit*, but onlie to be punishable *arbitrio Judicis, pro ratione rei et personarum*. And this is the cleare resolutione of Julius Clarus and all the Doctors ; so that albeit I had never consulted anie Advocat, nor had never any bookes to studie the mater, yett the light of reason was so cleare, as no Judge but Sir William Hart, whom I might have lawfullie declin'd, would have sustained such a lybell.

The Earle of Dumbar, fearing I should alter, upon this new alteratione sent the Lord Burlie unto me ; who, as he dealt ever honourable with me, so I was plaine with him, that I would not stand to my Depositiones made in England, and that I would challenge the Earle, upon his oath, of the conditione made unto me at the subscribing therof. There was great intercession made that I would have a regarde to the Earle of Dumbar's credit, and the advantage both my publick enemies and his feereit ill-willers would make, if that turne were not done to his Ma's contentment ; and that, however I might resist his Ma. at this time, wherof the event, in respect of the honest dispositione of the Judge and principall Assessor was uncertaine, yett I would be kept in continuall prison ; and, seing the Earl of Dumbar was willing to secure all things promised before, a sentence of Conviction was no more hurtfull to me nor either a coming in Will, nor in entering in a contestatione with the King, having so great enemies both at Court and at home. In end, upone promises renewed, and my desire of quietnesse, and that my enemies should acquire no more credit be my troubles, and conditiones past betuixt the Earle of Dumbar and me to stand sure, I was content to abide at my former Depositiones.

So the Earle of Dumbar, in prefence of the Lords of Skoone and Burlie, both after particular affurance and folemne oathe to my felf, renewed what he had promifed before, anent my life and eftate, and that he knew perfectlie it was never his Ma^s minde to (take) my life.

Nixt followed my Conviction at St Andrewes, wherin I was the onlie actor my felf, to give his Ma^s fatisfactione; following, in every point, the Lord of Dumbar's directione, brought to me either by the Lord Burlie or the Lord Skoone.

A COPIE of the SPEECH I had at St Andrewes, at the time of my Convictione.

THERE is none of your Lordfhips but underftand fufficientlie that if I would ftand contentiouflie to my Defences, no Depofitione, made by me in England, could prejudice me in any Tryall Criminall I was to fuffaine; nevertheleffe, as in all this actione, from the beginning, I have preferred the truth of his Ma^s innocencie to the prefervatione of my life and eftate,¹ fo I am fo farre from retreating what I have faid there, before that noble and moft grave Counfell; that if, in more cleare termes, I could aggravat the juft defert of my own haynous offence, and make his Ma^s undefiled finceritie and innocencie knowne to all the world, I would moft willinglie doe the fame. I were not worthie life, if my life, that hes had no happineffe but under the glances of his benignitie, I fhould labour to be preferved, with the finallft imputatione that might ftaine his Ma^s honour. No man knoweth better his Ma^s naturall clemencie, and how unwillinglie his Ma. is forced with this feveritie to profecute the truth of this callumnious imputatione; which, by my abufe of his truft, is drawn upon his moft innocent Ma. Therfor, I ratifie whatfoever I have formerly depoune; and, if no otherwife his Ma^s honour may be fufficiently exonered, I willinglie offer my blood and poore eftate to expiat my offence; and to teach others, by my exampill, to goe no farther in thair mafter's fervice then they have fufficient Warrant.

BUT immediatlie after the Ratificatione of my Depofitiouns, in Falkland, the Earle of Dumbar fent my Lord Burlie to Court, to fhew his Ma. what fatisfactione I had given, to procure me all the favour he could, and to hold my friends there buffie. Likeas, the Earle concluded, that immediatlie after my Convictione, my brothers fone fhould goe poft to Court, for my Remiffioun; and that the Lord Burlie fhould ftay his coming, and concurre with him to that effect. And albeit it was promifed to me, by my Lord Burlie, in the Earle of Dumbar's name, that Ropar's Reverfione fhould be fafe to me, yett the faid Earle, fearing Sir Robert Ker's credit,² made me to yield to paffe that to him, which was the beft hope I had of relief of my great debt, and help of my children. So as I have in all this, from the beginning, allutterlie repofed upon the Earle of Dumbar; and, by his onlie meanes, am brought in this mifery, out of the which, if, according to his manie promiffes, he releave me, I and all mine are the

¹ It may be proper here to notice, that Lord Balmerinoch, besides his numerous Offices, was possessed of very extensive landed estates, such as the baronies of *Balmerinoch*, *Barnton*, *Barrie*, *Ballumby*, *Innerpeffer*, *Dingwall*, *Balgregie* and *Restalrig*, &c. By his first wife, Sarah, daughter of Sir John Menteith of Kerse, he had (1.) *John*, afterwards second Lord Balmerinoch. And by his second wife, Marjory, daughter of Hugh Maxwell of Tealing, he had (2.) *James*, who was created Lord Couper. (3.) *Anne*, married to Andrew, first Lord Frazer; and (4.) *Mary*, married to John Hamilton of Blair.—See *Wood's Peerage*, &c. ² The corrupt favourite, Sir Robert Kerr or Carr, who attended King James to England, and was invested with the Order of the Bath at his Coronation, for a long period had unlimited sway at Court, and had the absolute disposal of all the Royal favours. He was successively created Gentleman of the Bedchamber, Lord High Treasurer of Scotland, 1611; Viscount Rochester, Mar. 25, 1612; Knight of the Garter, May, 1612; Earl of Somerset and Baron of Brancepeth, Nov. 3, 1613; Chamberlain of the Household; and sworn a Privy Councillor, the same year. The character of this infamous person, his shameless marriage to the divorced Countess of Essex, the murder of Sir Thomas Overbury, for which he and his Countess were convicted, May 24, 1616, (see *Howell's State Trials*, II. pp. 951 to 1022); their subsequent release from the Tower, Jan. 1621-2; and their pardon by the King, under the Great Seal, Oct. 7, 1624, in the face of his Majesty's solemn and awful imprecation, in reference to the murderers of Overbury, that 'If I spare any that are guilty, God's curse light on me and my posterity for ever!' All the circumstances of his life are so well known, that it is only necessary to recall these few leading points to the reader's memory. He died in London, and was buried in the Church of St. Paul's, Covent-Garden, Jul. 17, 1645. It may be interesting to refer to the numerous Memoirs and Histories relating to this remarkable period, in illustration of the above remarks. In particular, reference may be made to *Lord Bacon's Works*, I. 87, also to his *Correspondence*, and to *Weldon's Court of K. James*, p. 99, &c., for the almost incredible dissimulation practised by James on his parting with Somerset at Royston, when his fate was for ever sealed, and when he had determined that 'he should see his face no more for ever.'

more bound to him; otherwise, there is a God in Heaven will have regard to his dealing; and, either here or hence, he will suffer for it! The vile and detestable ingratitude of Sir Alexander Hay, I am sure, the Lord will not suffer unpunished! As for others of our Nation, who have little regarde wherefore I suffer at Englishmen's hands, God forgive them! The day will come, that they and theirs will weepe for it! I pray God blesse his Ma.; and that his undeserved rigour against me (who, I am sure, is perswaded, in his heart, I never thought ane undutifull thought against him, his Crown, countrie, nor estate,) be not layed to his charge, in that great day, when his crown and scepter will be layed at his feet, and he must yeild a reckning of his stewardship! And, so may I be judged, if I had anie other course, in all that or anie other service that ever I was putt in trust of be his Ma., but his Ma's weale and honour, and the libertie and good of my countrie, which is miserable, comming in a vile fervitude; the foresight wherof is all my wracke!

This the naked truth of all this mater, written in such haste, and at such occasions as I could, in respect of my strait keeping; and whatever, for his Ma's satisfactione, I have written or said upone the false promisses and traterous intysemments of those whom I trusted, different from this my cleare and true Depositione, as God is my witnesse, it is false! FALKLAND, the 10 of May, 1609.

BALMERINOCHE.

VIII. CALDERWOOD'S ACCOUNT¹ of Lord Balmerinoch's conduct, from the period of his Conviction to his Death.

WHEN he was brought from Falkland to Leith, after his Convictione at St Andrewes, and was received by the town of Edinburgh, in their armour; when he came to Leith-Winde foote, or the Nether-bow-Port, he was commanded to light off his horse, for they receive no ryding prisoners. He excused himself with the infirmite of the goute in his feete; and willed them to shew him that much courtesie, as to suffer him to ride forward. One of the town, standing hard beside, answered *Pamfara, tantara*!² my Lord! Now, when some directed from the Counsell of Edinburgh, long before his fall, requisted him not to mainteane one of his dependers against them, in ane actione they had against him, for they could be more stedible³ to him then that man, he answered *Pamfara, tantara*! This taunt is now repeated to him with a taunt, and he was forced to light off his horse. Thirdlie, Its to be observed, that the Doome being delayed, after his convictione at St Andrewes, till his Ma's farther pleasure were knowne, in the tolbooth of Edinburgh upon the first of March, in presence of the Justice and the Lords of Counsell, after reading of his Convictione, that he should be beheaded, quartered, and demeaned like a tratour, and his members to be sett upon the Ports, and cheif towns, yett he appeared to have some good hope of releef. He would have spoken something, but could not utter his minde: The Earle of Dumbar commanded to remove him incontinent! After dinner, he was conveyed to Leith-Winde-foote, and delivered to the Shireff of the shire; but manie wondred wherefore he was suffered, when he went out of Edinburgh, to carie his sword about him. It was thought strange that such a thing should be suffered in a condemned tratour. Some thought, therefore, there was no danger; others thought he was caried to Falkland, that he might suffer there, where the fault was committed, and died after in displeasure, fearing ever the worst. Fourtlie, it is to be observed,

¹ See *Cald. Church Hist.* MS. Adv. Library, VII. 283.

² An exclamation in some measure equivalent to 'Nonsense!' 'Humbug!' &c. expressive of contemptuous incredulity and derision; and applied by those who have a bombastic or high-sounding parade of empty words addressed to them, which, like the idle flourish of a trumpet, seem calculated to convey no meaning. Perhaps this contemptuous expression took its rise from the remarkably alliterative and playful line of *Old Ennius*, a rough soldier, who sacrificed rather liberally to Bacchus, and who wrote his heroics best when under the influence of the rosy God. Many of his verses smell strongly of the goblet!

³ *TUM TUBA TERRIBLEI SONITU TARATANTARA DIXIT!*

The words *tantafera, tantaferata*, are still used in Italy to signify *nonsense*, &c.; and the French also familiarly use *tarare!* and *tarare-pon-pon!* 'pour marquer qu'on se moque de ce qu'on entend dire—ou qu'on ne le croit pas,' &c. *Dict. de l'Acad. Fran.* 1813. This reproachful retort, and the taunt of the Edinburgh citizen, must have stung the fallen courtier to the quick.

³ Be of more service to him; stand him in better stead.

that about the same time, the King's reply to *Mathæus Tortus*, with a monitorie preface to the Emperour and all Christian Princes come furth in print, no mentione was made in that booke of Sir James Elphinstoune's Confessione or Depositions; which might have served to great use, to have purged him of *Tortus* his imputations. Yea, when he was in England, and had come in the King's will, the King could not be content till he *subscribed* his Depositions, as Dumbar assured him; because the not subscribing hindred the progresse of the Kings Answer to *Tortus* booke, quhair of his Depositione behoved to be a part. He therefore sett too his hand, in presence of some Noblemen and others, as yee may see in his own Relatione. Because the Depositiones were omitted in the Answer to *Mathæus Tortus*, and upon other considerations, manie doubted of the sinceritie of this proceeding against him; and suspected, that he had taken upon him the crime to currie the Kings favour, he keeping his credit. Mr Andrewes, indeed, in a Letter written the 23 of March to his Nephew Mr James, setteth down his opinioun in these words. *De judicio quid ego sentiam uno verbo accipe; inglorie fuit, est et erit, ut ego presentio, contra nos vero seria omnia et serio—nescit regnare qui nescit dissimulare.*¹ Since heart is free,² &c. Fiftlie, it is to be observed that Bishops, notwithstanding of his paines and dilligence taken at Linlithgow, and the manie Proclamations penned be him, spytfull enewgh against the Ministers, they prove now at this tyme his great enemies, and none so busie to seeke his overthrow! It may be, the small countenance he kythed, in Counsell, in favour of Mr John Murrey, or the like occasions, have given them occasione to seeke his removell out of the way; that another Statfman, more foreward for their course, may be placed in his roome. But then we may see the deep malice and hatred of aspiring Prelats, that seek the overthrow of all that stand in their way!

About the beginning of October (1609), there came a Warrant from the King to give libertie to the President to have free ward in Falkland and a myle about; he finding cautione not to escape, under the paine of Fourtie Thousand pounds.

Mr James Elphinstone, Lord of Balmerinloch, and latly Secretary, ended his dayes, about the end of May (1612).

IX. LETTER *from* THE KING *to* THE PRIVY COUNCIL OF SCOTLAND, *informing them of the Examination and Confession of the Lord Balmerinloch.*³

RIGHT trustie and weilbeloveit cosines and counsallouris, We greatt 3ow weell. TYME, the moder of trewth, haveing now discovered and brocht to lycht that long obscureid and moist heynous offence and cryme committed be the Lord of Balmerinloch aganes our honour, credeitt, and reputatioun, and which now by his cleir Confessioun is manifest to all the world, and We thairby purgeit of thoise moist wniust and wrangous imputationes, quhilkis We did wnderly, by his foull abuse of that trust we had in him; quhair of both We and all our subiectis have no small caus to thank God; since the careage of the actioun, in the discoverie of it, may justlie be said to have bene done by Godis awin finger! And as We have hithertillis spaired to acquent 3ow particularlie, with the hole circumstances of his Confessioun and Examinatioun, vntill such tyme as the same wes here finisshed; so, by the rycht reverent Fader in God and our rycht trustie counsallour the Archbishope of Glasgow, (quho wes ane eie witnes and heirar of the same, and now is returning thither,) 3ow may be at lenth informed of the same. Bot, becaus the Devill wants his awin suppoistis reddie to mak falsse subgestiounes, in preassing, by misconstruing of thingis, to harme the trewth reveilled; and that thair man be perhappis

¹ So in the original, but very obscure, and evidently a wrong reading.

² Perhaps referring to the old saw,

'Since word is thrall and thought is free,
Keep well thy tongue, I counsel thee.'

³ This and the two following Letters are taken from a valuable Collection of State Papers transcribed by Thomas Earl of Hadington, (Sir Tho. Hamilton,) preserved in the General Register House, Edinburgh; which did not come to the Editor's knowledge till nearly the whole of the preceding Appendix was printed.

fum false rumouris and bruttis thair spred, in extenuating the qualitie of the offence one his pairt, and deryeing in fum fort a pairt of the blame of that mater on ws; as it is a proud malapairt baldnes and presumptionne for the best of our subiectis to medill in ony thing that may concerne our credeit and honour, without a varie good warrant; and that all pretenssles of mistaking our trusting to wncertane reportis ar so far to be misregairdit, as thay rather justlie deserue the greater seueretie to be vsed aganes fuche as will excufie tham felfis thairby; so, to repress such insolent wantonnes, in any of our subiectis pair, who aither out of malice doe forge thame, or out of thair vaine, folethe, and idill breanes do frame thame, We will and command 3ow to tak particular tryall of all fuche as hes bene or heir- efter false spreddaris of ony rumouris or bruttis in this mater, wtherwayis nor false by the said Archbithop reportit wnto 3ow; and that 3ow caus the rigoure and extreamitie of our lawis to be execut aganes thame! that thairin We may have a speciall prooff quhat dew accompt 3ow mak of our reputationne and credit, which wnto ws (is) moir deirar nor our varie lyffe! And referring all farder to the Archbishopis relationne, whome We will 3ow to trust, We bid 3ow fairweill. FROM our Court, at Roystoun, the 21 of November, 1608. [JAMES R.]

To our rycht trustie and weilbelouit cosinges and counfallouris, the Erll of Dumfermeling, our Chancellor, and remanent Lordis and wtheris of our PRIVIE COUNSALL of that our Kingdome of SCOTLAND.

X. LETTER *from* THE PRIVY COUNCIL OF SCOTLAND *to* THE KING.

Moist gracious Souerane,

WE ressaueid your Ma. Letter of the 21 of November; and hes hard, at greitt lenth, the relationne made by the reverend Fader in God 3our trustie Counfallour the Archbithope of Glasgowe, anent the Confessioun and hole circumstances of that lang obscured and moist heynous and inexcusable offence committit be the Lord Balmerinock aganes 3our credeit, honour, and reputatioun; quhairin, as fencible and feeling memberis of so glorious and gracious a head, finding our awin interellis, greiff and sorrow that 3our Ma^s most famous and vnspotted name, honoure, and credeit, which 3our heyne hes to this houre so religiouslie conservit in all puritie, shuld have bene so unworthellie, and in so heich a point, brocht in questioun be ony of our number, quho hes that honour to be selectit be 3our Ma. to the cheiff credeit of 3our service heir; so, with moist joyfull, humbill, and thankfull hartis to God, we acquawleg that greit blissing and benefeit which it hes pleasit his Devyne Matie to schew wnto 3our hienes by the detecting and discoverie of that purpose, and vindicating the sinceretie and innocencie of 3our royall hart frome all suspitioun of the wrangouse and wniust imputations which 3our heyne wnderlay thairin; manifesting thairby his Devyne caire and Providence which he hes evir had over 3our sacreid persoun, honour, and estait, and in quhat detestatioun he holdeth all practizes and purposes prejudiciall thairvnto. And quhairas, in the censuring of this fact befor 3our Ma^s honourabill Privie Counfall of that kingdome, thay, be 3our Ma. directionne, (we doubt not) have remittit the full tryall pairof to the lawis and formes of this country, with many demonstratiounes and oppin Speeches, concerning the good opinioun thay have of the equitie of our lawis, and cinferitie of our effectiounne in 3our Ma. service, we have not onely infinite occasionne, with all humilitie, first to thank 3our sacred Ma., and nixt thame, for so respective a reservationne to ws of that whiche 3our Ma. knowis to be proper and dew to the privilege and freedome of this 3our auintient and nobill Croune. Bot we hop, God willing, to give wnto 3our Ma. a prooff, with all fidelitie, caire, and sinciretie, we fall prosequete and follow out quatevir it fall pleis 3our sacreid Ma. in 3our princely wisdom to command, als weill in this as in any wther thing els, tuiching 3our hienes, in honour and estate. And, in the meantyme, if any of 3our Ma. subiectis hes bene or false so wndewtifull, foolethe, and unworthie, as to give oute any false bruitis and rumouris aganes the wndouttit trewth and varitie of this mater, or to the extenuatting pairof in any poynt, we fall not fail so exactlie to examen, try, and punceithe the samen, as wtheris false terriset to fall in the lyk error heirefter. And sua, praying God still to vp-

bold 3our sacreid Ma. with all 3our royall progenie wnder his Dewyne protectionne and fauffgaird,
we rest for ever

3our Ma. most humbill and obedient subjectis and feruitouris,

A. CANCELL^s. SANTAND^s. MAR. PERTH. LOTHEANE. BUGCLEUCHE. TORPHICHEN.
HALIRUDHOUSE. BEULIE. GAIRLEIS. ROISS. J. COKBURNE. R. COKBURNE.
S. T. HAMILTOUN. JO. PRESTOUN. S^r ROBERT MELUILL. P. ROLLOK.

ED^r, 6 December, 1608.

XI. LETTER *from* THE KING to THE PRIVY COUNCIL OF SCOTLAND, with WARRANT *for the enlargement of Lord Balmerinoch.*

RIGHT trustie and weilbeloveit counfines and Counsallouris, We greete 3ow weel. WNDERSTAND-
ING of the evill constitutioun in helth, and seiknes in body, of the leat Lord of Balmerinoch, by ref-
foune of his detentioune and cloise keeping within our Palife of Falkland, and in the foire Toure¹
pairrof; and humill sute, for this caus, being mead wnto ws, for his enlargement, in sum foirt; We
haif bene pleiffit to grant our Licence, for his libertie and friedom, within our said Palice and a myle
in circuite round about the same; upoun condition alwayis, that he doe not transcend the boundis
prefixit; and that he find sufficient resposuall laudit gentill men actit in 3our buikis, as cautioneris and
fouerteis for his performance of the said conditione, vnder the pane of xl^m li.² vsual Scoittis money.
For whiche caus, We haue thocht meet to will 3ow to direct to the said Court of Falkland, quhair his
present place and residence of abode is, 3our Clerk of Counsell, with the Licence heirwith sent, com-
manding 3our said Clerk to reslaue the foirfaid act of caution of sufficient landit men, boundin vnder
the foume aboue specifeit, for performing the conditione aboue writtin, of his containing him selff and
not exceeding the boundis of his confynning; and heiryvpon the said Clerk to delyver vnto him the
foirfaid Licence, to be his warrand of this his enlargement. And so We bid 3ow fairweele. ROYSTOUNE,
frist of October, 1609. [JAMES R.]

Slaughter.

Mar. 14, 1609.—JOHN GLENDONING of Drumrafsche.

Dilaitit of airt and pairt of the slauchter of vmq^{le} George Stewart, brother
germane to vmq^{le} Mathow Stewart of Dunduf.

PERSEWAR, Williame Stewart of Dunduf, brother-sone.

THE JUSTICE, of consent of ather pairtie, Continewis this dyet to the thrid
day of the Air,³ ('Kirkeuldbricht?') or foner vpone xv dayis wairning.

¹ Fore or front tower. ² L.40,000. ³ What took place at the Justice-air has not fallen
under the Editor's observation. It is likely the case was compromised by payment of a pecuniary fine
to the private prosecutor; on which 'Letters of Staines' would follow, as a warrant for the King's Re-
mission. In cases of Slaughter or unpremeditated Homicide, in a skirmish, it was a common manner
of withdrawing the *instance*, for both parties to concur in a continuation of the *diet* to the Justice-air.
Another mode was to use influence with the 'Baron of the Regality,' &c. within whose jurisdiction
the parties resided, to *repledge* them to his Court, and where the matter was easily hushed up. The
King's Remission, in case of accidents, was also afterwards procured, lest future feud should occasion
a renewal of the prosecution, and perhaps terminate fatally to the homicide.

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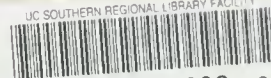
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